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CIVIL GOVERNMENT

AND

RELIGION,

OR

CHRISTIANITY AND THE AMERICAN
CONSTITUTION.

BY ALONZO T. JONES.

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PREFACE.

THIS little work is the outgrowth of several lectures upon the relationship between religion and the civil power, delivered in Minneapolis, Minn., in October, 1888. The interest manifested in the subject, and numerous requests for the publication of the main points of the arguments presented, have led to the issuing of this pamphlet. It is not intended to be exhaustive in its discussion of any point upon which it treats, but only suggestive in all. The subject is always interesting and important, and as there is now a persistent demand being made for religious legislation, especially in relation to Sunday-keeping, this subject has become worthy of more careful study than it has ever received in this country since the adoption of the national Constitution. The quotations and references presented, with connecting arguments, are designed simply to furnish the reader a ready reference, and directions to further study of the subject. It is hoped that the facts presented will awaken more interest in the study of the Constitution of the United States, and may lead to a better understanding of men's rights and liberties under it, than is commonly shown; and also to a closer study of the relation that should exist between civil government and religion, according to the words of Christ and the American Constitution.

A. T. J.

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CIVIL GOVERNMENT AND RELIGION.

CHAPTER I.

CHRISTIANITY AND THE ROMAN EMPIRE.

JESUS CHRIST came into the world to set men free, and to plant in their souls the genuine principle of liberty, — liberty actuated by love, — liberty too honorable to allow itself to be used as an occasion to the flesh, or for a cloak of maliciousness, — liberty led by a conscience enlightened by the Spirit of God, — liberty in which man may be free from all men, yet made so gentle by love that he would willingly become the servant of all, in order to bring them to the enjoyment of this same liberty. This is freedom indeed. This is the freedom which Christ gave to man ; for whom the Son makes free, is free indeed. In giving to men this freedom, such an infinite gift could have no other result than that which Christ intended ; namely, to bind them in everlasting, unquestioning, unswerving allegiance to him as the royal benefactor of the race. He thus reveals himself to men as the highest good, and brings them to himself as the manifestation of that highest good, and to obedience to his will as the perfection of conduct. Jesus Christ was God manifest in the flesh. Thus God was in Christ reconciling the world to himself, that they might know him, the only true God, and Jesus Christ whom he sent. He gathered to himself disciples, instructed them in his heavenly doctrine, endued them with power from on high, sent them forth into all the world to preach this gospel of freedom to every creature, and to teach them

to observe all things whatsoever he had commanded them.

The Roman empire then filled the world,—“the sublimest incarnation of power, and a monument the mightiest of greatness built by human hands, which has upon this planet been suffered to appear.” That empire, proud of its conquests, and exceedingly jealous of its claims, asserted its right to rule in all things, human and divine. As in those times all gods were viewed as national gods, and as Rome had conquered all nations, it was demonstrated by this to the Romans that their gods were superior to all others. And although Rome allowed conquered nations to maintain the worship of their national gods, these, as well as the conquered people, were yet considered only as servants of the Roman States. Every religion, therefore, was held subordinate to the religion of Rome, and though “all forms of religion might come to Rome and take their places in its Pantheon, they must come as the servants of the State.” The Roman religion itself was but the servant of the State; and of all the gods of Rome there were none so great as the genius of Rome itself. The chief distinction of the Roman gods was that they belonged to the Roman State. Instead of the State deriving any honor from the Roman gods, the gods derived their principle dignity from the fact that they were the gods of Rome. This being so with Rome’s own gods, it was counted by Rome an act of exceeding condescension to recognize legally any foreign god, or the right of any Roman subject to worship any other gods than those of Rome. Neander quotes Cicero as laying down a fundamental maxim of legislation as follows:—

“No man shall have for himself particular gods of his own; no man shall worship by himself any new or foreign gods, unless they are recognized by the public laws.”—*Neander’s Church History*, vol. 1, pp. 86, 87. Torrey’s translation, Boston, 1852.

Thus it is seen that in the Roman view, the State took precedence of everything. The State was the highest idea of good. As expressed by Neander : —

“The idea of the State was the highest idea of ethics ; and within that was included all actual realization of the highest good ; hence the development of all other goods pertaining to humanity, was made dependent on this.” — Id. p. 86.

Man with all that he had was subordinated to the State ; he must have no higher aim ; he must seek no higher good. Thus every Roman citizen was a subject, and every Roman subject was a slave. Says Mommsen : —

“The more distinguished a Roman became, the less was he a free man. The omnipotence of the law, the despotism of the rule, drove him into a narrow circle of thought and action, and his credit and influence depended on the sad austerity of his life. The whole duty of man, with the humblest and greatest of the Romans, was to keep his house in order, and be the obedient servant of the State.”

It will be seen at once that for any man to profess the principles and the name of Christ, was virtually to set himself against the Roman empire ; for him to recognize God as revealed in Jesus Christ as the highest good, was but treason against the Roman State. It would not be looked upon by Rome as anything else than high treason, because the Roman State representing to the Roman the highest idea of good, for any man to assert that there was a higher good, and thus make Rome itself subordinate, would not be looked upon in any other light by Roman pride than that such an assertion was a direct blow at the dignity of Rome, and subversive of the Roman State. Consequently the Christians were not only called “atheists,” because they denied the gods, but the accusation against them before the tribunals was for the crime of “high treason,” because they denied the right of the State to interfere with men’s relations to God. The accusation was that they

were "irreverent to the Cæsars, and enemies of the Cæsars and of the Roman people."

To the Christian, the word of God asserted with absolute authority: "Fear God, and keep his commandments; for this is the whole duty of man." Eccl. 12:13. To him, obedience to this word through faith in Christ, was eternal life. This to him was the conduct which showed his allegiance to God as the highest good, — a good as much higher than that of the Roman State as the government of God is greater than was the government of Rome, as God is greater than man, as heaven is higher than earth, as eternity is more than time, and as eternal interests are of more value than temporal.

The Romans considered themselves not only the greatest of all nations and the one to whom belonged power over all, but they prided themselves upon being the most religious of all nations. Cicero commended the Romans as the most religious of all nations, because they carried their religion into all the details of life.

"The Roman ceremonial worship was very elaborate and minute, applying to every part of daily life. It consisted in sacrifices, prayers, festivals, and the investigations, by auguries and haruspices, of the will of the gods and the course of future events. The Romans accounted themselves an exceedingly religious people, because their religion was so intimately connected with the affairs of home and State. . . . Thus religion everywhere met the public life of the Roman by its festivals, and laid an equal yoke on his private life by its requisition of sacrifices, prayers, and auguries. All pursuits must be conducted according to a system carefully laid down by the College of Pontiffs. . . . If a man went out to walk, there was a form to be recited; if he mounted his chariot, another." — *Ten Great Religions*, chap. 8.

The following extract from Gibbon will give a clear view of the all-pervading character of the Roman relig-

ious rites and ceremonies, and it also shows how absolutely the profession of the Christian religion made a separation between the one who professed it and all things pertaining to the affairs of Rome : —

“The religion of the nations was not merely a speculative doctrine professed in the schools or preached in the temples. The innumerable deities and rites of Polytheism were closely interwoven with every circumstance of business or pleasure, of public or of private life ; and it seemed impossible to escape the observance of them, without, at the same time, renouncing the commerce of mankind and all the offices and amusements of society. . . . The public spectacles were an essential part of the cheerful devotion of the pagans, and the gods were supposed to accept, as the most grateful offering, the games that the prince and people celebrated in honor of their peculiar customs. The Christian, who with pious horror avoided the abomination of the circus or the theater, found himself encompassed with infernal snares in every convivial entertainment, as often as his friends, invoking the hospitable deities, poured out libations to each others' happiness. When the bride, struggling with well-affected reluctance, was forced in hymenial pomp over the threshold of her new habitation, or when the sad procession of the dead slowly moved toward the funeral pile, the Christian, on these interesting occasions, was compelled to desert the persons who were dearest to him, rather than contract the guilt inherent to those impious ceremonies. Every art and every trade that was in the least concerned in the framing or adorning of idols, was polluted by the stain of idolatry.

“The dangerous temptations which on every side lurked in ambush to surprise the unguarded believer, assailed him with redoubled violence on the day of solemn festivals. So artfully were they framed and disposed throughout the year, that superstition always wore the appearance of pleasure, and often of virtue. . . . On the days of general festivity, it was the custom of the ancients to adorn their doors with lamps and with branches of laurel, and to crown their heads with garlands of flow-

ers. This innocent and elegant practice might have been tolerated as a mere civil institution. But it most unluckily happened that the doors were under the protection of the household gods, that the laurel was sacred to the lover of Daphne, and that garlands of flowers, though frequently worn as a symbol either of joy or mourning, had been dedicated in their first origin to the service of superstition. The trembling Christians who were persuaded in this instance to comply with the fashions of their country and the commands of the magistrates, labored under the most gloomy apprehensions from the reproaches of their own conscience, the censures of the church, and the denunciations of divine vengeance."

All this clearly shows that to profess the name of Christ, a person was compelled to renounce every other relationship in life. He could not attend a wedding or a funeral of his nearest relatives, because every ceremony was performed with reference to the gods. He could not attend the public festival, for the same reason. More than this, he could not escape by not attending the public festival; because on days of public festivity, the doors of the houses, and the lamps about them, and the heads of the dwellers therein, must all be adorned with laurel and garlands of flowers, in honor of the licentious gods and goddesses of Rome. If the Christian took part in these services, he paid honor to the gods as did the other heathen. If he refused to do so, which he must do if he would obey God and honor Christ, he made himself conspicuous before the eyes of all the people, all of whom were intensely jealous of the respect they thought due to the gods; and also in so doing, the Christian disobeyed the Roman law, which commanded these things to be done. He thus became subject to persecution, and that meant death, because the law said:—

"Worship the gods in all respects according to the laws of your country, and compel all others to do the

same. But hate and punish those who would introduce anything whatever alien to our customs in this particular."

And further : —

"Whoever introduces new religions, the tendency and character of which are unknown, whereby the minds of men may be disturbed, shall, if belonging to the higher rank, be banished ; if to the lower, punished with death."

This was the Roman law. Every Christian, merely by the profession of Christianity, severed himself from all the gods of Rome, and from everything that was done in their honor. And everything *was* done in their honor. The great mass of the first Christians were from the lower ranks of the people. The law said that if any of the lower ranks introduced new religions, they should be punished with death. The Christians, introducing a new religion, and being from the lower ranks, made themselves subject to death whenever they adopted the religion of Christ. This is why Paul and Peter, and multitudes of other Christians, suffered death for the name of Christ. Such was the Roman law, and when Rome put the Christians to death, it was not counted by Rome to be persecution. It would not for an instant be admitted that such was persecution. It was only enforcing the law. The State of Rome was supreme. The State ruled in religious things. Whoever presumed to disobey the law must suffer the penalty ; all that Rome did, all that it professed to do, was simply to enforce the law.

If the principle be admitted that the State has the right to legislate in regard to religion, and to enforce religious observances, then no blame can ever be attached to the Roman empire for putting the Christians to death. Nor can it be admitted that such dealings with the Christians was persecution. The enforcement of right laws can never be persecution, however severely the law may deal with the offender. To hang a murderer is not persecu-

tion. To hunt him down, even with blood-hounds, to bring him to justice, is not persecution. We repeat, therefore, that the enforcement of right laws never can be persecution. If, therefore, religion or religious observances be a proper subject of legislation by civil government, then there never has been and there never can be any such thing as religious persecution. Because civil governments are ruled by majorities, the religion of the majority must of necessity be the adopted religion; and if civil legislation in religious things be right, the majority may legislate in regard to their own religion. Such laws made in such a case must be right laws, and the enforcement of them therefore can never be persecution.

But all this, with the authority and all the claims of the Roman empire, is swept away by the principle of Christ, which every one then asserted who named the name of Christ,—that civil government can never of right have anything to do with religion or religious observances,—that religion is not a subject of legislation by any civil government,—that religion, religious profession, and religious observances must be left entirely between the individual and his God, to worship as his own conscience shall dictate,—that to God only is to be rendered that which is God's, while to Cæsar is to be rendered only that which is Cæsar's. This is the principle that Christ established, and which, by his disciples, he sent into all the world, and which they asserted wherever they went; in behalf of which they forfeited every earthly consideration, endured untold torments, and for which they freely gave their lives. It was, moreover, because of the establishment of this principle by Jesus Christ, and the assertion of it by his true disciples, that we have to-day the rights and liberties which we enjoy. The following extract from Lecky is worthy to be recorded in letters of gold, and held in sorrowful, but ever grateful, remembrance:—

"Among the authentic records of pagan persecutions, there are histories which display, perhaps more vividly than any other, both the depth of cruelty to which human nature may sink, and the heroism of resistance it may attain. . . . The most horrible recorded instances of torture were usually inflicted, either by the populace, or in their presence in the arena. We read of Christians bound in chairs of red-hot iron, while the stench of their half-consumed flesh rose in a suffocating cloud to heaven ; of others who were torn to the very bone by shells or hooks of iron ; of holy virgins given over to the lusts of the gladiator, or to the mercies of the pander ; of two hundred and twenty-seven converts sent on one occasion to the mines, each with the sinews of one leg severed with a red-hot iron, and with an eye scooped from the socket ; of fires so slow that the victims writhed for hours in their agonies ; of bodies torn limb from limb, or sprinkled with burning lead ; of mingled salt and vinegar poured over the flesh that was bleeding from the rack ; of tortures prolonged and varied through entire days. For the love of their divine Master, for the cause they believed to be true, men, and even weak girls, endured these things without flinching, when one word would have freed them from their suffering. No opinion we may form of the proceedings of priests in a later age, should impair the reverence with which we bend before the martyr's tomb."—*History of European Morals*, end of chapter 3.

All this was endured by men and women and even weak girls, that people in future ages might be free. All this was endured in support of the principle, that with religion, civil government cannot of right have anything to do. All this was endured that men might be free, and that all future ages might know it to be the inalienable right of every soul to worship God according to the dictates of his own conscience.

CHAPTER II.

WHAT IS DUE TO GOD, AND WHAT TO CÆSAR?

"THEN went the Pharisees, and took counsel how they might entangle him in his talk. And they sent out unto him their disciples with the Herodians, saying, Master, we know that thou art true, and teachest the way of God in truth; neither carest thou for any man, for thou regardest not the person of men. Tell us therefore, What thinkest thou? Is it lawful to give tribute unto Cæsar, or not? But Jesus perceived their wickedness, and said, Why tempt ye me, ye hypocrites? Show me the tribute money. And they brought unto him a penny. And he saith unto them, Whose is this image and superscription? They say unto him, Cæsar's. Then saith he unto them, Render therefore unto Cæsar the things which are Cæsar's, and unto God the things that are God's."

In these words Christ has established a clear distinction between Cæsar and God,—between that which is Cæsar's and that which is God's; that is, between the civil and the religious power, and between what we owe to the civil power and what we owe to the religious power. That which is Cæsar's is to be rendered to Cæsar; that which is God's is to be rendered to God alone. With that which is God's, Cæsar can have nothing to do. To say that we are to render to Cæsar that which is God's, or that we are to render to God, by Cæsar, that which is God's, is to pervert the words of Christ,

and make them meaningless. Such an interpretation would be but to entangle him in his talk,—the very thing that the Pharisees sought to do.

As the word *Cæsar* refers to civil government, it is apparent at once that the duties which we owe to Cæsar are civil duties, while the duties which we owe to God are wholly moral or religious duties. Webster's definition of *religion* is,—

“The recognition of God as an object of worship, love, and obedience.”

Another definition, equally good, is as follows :—

“Man's personal relation of faith and obedience to God.”

It is evident, therefore, that religion and religious duties pertain solely to God ; and as that which is God's is to be rendered to him and not to Cæsar, it follows inevitably that according to the words of Christ, civil government can never of right have anything to do with religion,—with a man's personal relation of faith and obedience to God.

Another definition which may help in making the distinction appear, is that of *morality*, as follows :—

“*Morality*: The relation of conformity or non-conformity to the true moral standard or rule. . . . The conformity of an act to the divine law.”

As morality, therefore, is the conformity of an act to the divine law, it is plain that morality also pertains solely to God, and with that, civil government can have nothing to do. This may appear at first sight to be an extreme position, if not a false one ; but it is not. It is the correct position, as we think any one can see who will give the subject a little careful thought. The first part of the definition already given, says that morality is “the relation of conformity or non-conformity to the true moral standard or rule,” and the latter part of the definition

shows that this true moral standard is the divine law. Again : Moral law is defined as —

“The will of God, as the supreme moral ruler, concerning the character and conduct of all responsible beings ; the rule of action as obligatory on the conscience or moral nature.” “The moral law is summarily contained in the decalogue, written by the finger of God on two tables of stone, and delivered to Moses on Mount Sinai.”

These definitions are evidently according to Scripture. The Scriptures show that the ten commandments are the law of God ; that they express the will of God ; that they pertain to the conscience, and take cognizance of the thoughts and intents of the heart ; and that obedience to these commandments is the duty that man owes to God. Says the Scripture, —

“Fear God, and keep his commandments ; for this is the whole duty of man.” Eccl. 12 : 13.

And the Saviour says, —

“Ye have heard that it was said by them of old time, Thou shalt not kill ; and whosoever shall kill shall be in danger of the judgment ; but I say unto you that whosoever is angry with his brother without a cause, shall be in danger of the judgment ; and whosoever shall say to his brother, Raca [vain fellow, *margin*], shall be in danger of the council ; but whosoever shall say, Thou fool, shall be in danger of hell fire.” Matt. 5 : 21, 22.

The apostle John, referring to the same thing, says, —

“Whosoever hateth his brother is a murderer.” 1 John 3 : 15.

Again, the Saviour says, —

“Ye have heard that it was said by them of old time, Thou shalt not commit adultery ; but I say unto you that whosoever looketh on a woman to lust after her, hath committed adultery with her already in his heart.” Matt. 5 : 27, 28.

Other illustrations might be given, but these are sufficient to show that obedience to the moral law is morality; that it pertains to the thoughts and the intents of the heart, and therefore, in the very nature of the case, lies beyond the reach or control of the civil power. To hate, is murder; to covet, is idolatry; to think impurely of a woman, is adultery;—these are all equally immoral, and violations of the moral law, but no civil government seeks to punish for them. A man may hate his neighbor all his life; he may covet everything on earth; he may think impurely of every woman that he sees,—he may keep it up all his days; but so long as these things are confined to his thought, the civil power cannot touch him. It would be difficult to conceive of a more immoral person than such a man would be; yet the State cannot punish him. It does not attempt to punish him. This demonstrates again that with morality or immorality the State can have nothing to do.

But let us carry this further. Only let that man's hatred lead him, either by word or sign, to attempt an injury to his neighbor, and the State will punish him; only let his covetousness lead him to lay hands on what is not his own, in an attempt to steal, and the State will punish him; only let his impure thought lead him to attempt violence to any woman, and the State will punish him. Yet bear in mind that even then the State does not punish him for his immorality, but for his incivility. The immorality lies in the heart, and can be measured by God only. The State punishes no man because he is immoral. If it did, it would have to punish as a murderer the man who hates another, because according to the true standard of morality, hatred is murder. Therefore it is clear that in fact the State punishes no man because he is immoral, but because he is uncivil. It cannot punish immorality; it must punish incivility.

This distinction is shown in the very term by which is designated State or national government ; it is called *civil* government. No person ever thinks of calling it moral government. The government of God is the only moral government. God is the only moral governor. The law of God is the only moral law. To God alone pertains the punishment of immorality, which is the transgression of the moral law. Governments of men are civil governments, not moral. Governors of men are civil governors, not moral. The laws of States and nations are civil laws, not moral. To the authorities of civil government pertains the punishment of incivility, that is, the transgression of civil law. It is not theirs to punish immorality. That pertains solely to the Author of the moral law and of the moral sense, who is the sole judge of man's moral relation. All this must be manifest to every one who will think fairly upon the subject, and it is confirmed by the definition of the word *civil*, which is as follows :—

“*Civil*: Pertaining to a city or State, or to a citizen in his relations to his fellow-citizens, or to the State.”

By all these things it is made clear that we owe to Cæsar (civil government) only that which is civil, and that we owe to God that which is moral or religious. Other definitions show the same thing. For instance, sin as defined by Webster, is “any violation of God's will ;” and as defined by the Scriptures, “is the transgression of the law.” That the law here referred to is the moral law—the ten commandments—is shown by Rom. 7:7:—

“I had not known sin, but by the law ; for I had not known lust, except the law had said, Thou shalt not covet.”

Thus the Scriptures show that sin is a transgression of the law which says, “Thou shalt not covet,” and that is the moral law.

But crime is an offense against the laws of the State. The definition is as follows : —

“Crime is strictly a violation of law either human or divine ; but in present usage the term is commonly applied to actions contrary to the laws of the State.”

Thus civil statutes define crime, and deal with crime, but not with sin ; while the divine statutes define sin, and deal with sin, but not with crime.

As God is the only moral governor, as his is the only moral government, as his law is the only moral law, and as it pertains to him alone to punish immorality, so likewise *the promotion of morality* pertains to him alone. Morality is conformity to the law of God ; it is obedience to God. But obedience to God must spring from the heart in sincerity and truth. This it must do, or it is not obedience ; for, as we have proved by the word of God, the law of God takes cognizance of the thoughts and intents of the heart. But “all have sinned, and come short of the glory of God.” By transgression, all men have made themselves immoral. “Therefore by the deeds of the law [by obedience] there shall no flesh be justified [accounted righteous, or made moral] in his sight.” Rom. 3 : 20. As all men have, by transgression of the law of God, made themselves immoral, therefore no man can, by obedience to the law, become moral ; because it is that very law which declares him to be immoral. The demands, therefore, of the moral law, must be satisfied, before he can ever be accepted as moral by either the law or its Author. But the demands of the moral law can never be satisfied by an immoral person, and this is just what every person has made himself by transgression. Therefore it is certain that men can never become moral by the moral law.

From this it is equally certain that if ever men shall be made moral, it must be by the Author and Source of all morality. And this is just the provision which God has

made. For, "now the righteousness [the morality] of God without the law is manifested, being witnessed by the law and the prophets; even the righteousness [the morality] of God which is *by faith of Jesus Christ* unto all and upon all them that believe; for there is no difference; for all have sinned [made themselves immoral], and come short of the glory of God." Rom. 3:21-23. It is by the morality of Christ alone that men can be made moral. And this morality of Christ is the morality of God, which is imputed to us for Christ's sake; and we receive it by faith in Him who is both the author and finisher of faith. Then by the Spirit of God the moral law is written anew in the heart and in the mind, sanctifying the soul unto obedience—unto morality. Thus, and thus alone, can men ever attain to morality; and that morality is the morality of God which is by faith of Jesus Christ; *and there is no other in this world.* Therefore, as morality springs from God, and is planted in the heart by the Spirit of God, through faith in the Son of God, it is demonstrated by proofs of Holy Writ itself, that *to God alone pertains the promotion of morality.*

God, then, being the sole promoter of morality, through what instrumentality does he work to promote morality in the world? What body has he made the conservator of morality in the world: the church, or the civil power; which?—The church, and the church alone. It is "the church of the living God." It is "the pillar and ground of the truth." It was to the church that he said, "Go ye into all the world, and preach the gospel to every creature;" "And, lo, I am with you alway, even unto the end of the world." It is by the church, through the preaching of Jesus Christ, that the gospel is "made known to all nations for the obedience of faith." There is no obedience but the obedience of faith; there is no morality but the morality of faith. Therefore it is proved that to the

church, and *not* to the State, is committed the conservation of morality in the world. This at once settles the question as to whether the State shall teach morality, or religion. The State *cannot* teach morality or religion. It has not the credentials for it. The Spirit of God and the gospel of Christ are both essential to the teaching of morality, and neither of these is committed to the State, but both to the church.

But though this work be committed to the church, even then there is not committed to the church the prerogative either to reward morality or to punish immorality. She beseeches, she entreats, she persuades men to be reconciled to God; she trains them in the principles and the practice of morality. It is hers by moral suasion or spiritual censures to preserve the purity and *discipline* of her membership. But hers it is not either to reward morality or to punish immorality. This pertains to God alone, because whether it be morality or immorality, it springs from the secret counsels of the heart; and as God alone knows the heart, he alone can measure either the merit or the guilt involved in any question of morals.

By this it is demonstrated that to no man, to no assembly or organization of men, does there belong any right whatever to punish immorality. Whoever attempts it, usurps the prerogative of God. The Inquisition is the inevitable logic of any claim of any assembly of men to punish immorality, because to punish immorality, it is necessary in some way to get at the thoughts and intents of the heart. The papacy, asserting the right to compel men to be moral, and to punish them for immorality, had the cruel courage to carry the evil principle to its logical consequence. In carrying out the principle, it was found to be essential to get at the secrets of men's hearts; and it was found that the diligent application of torture would wring from men, in many cases, a full confession of the most secret counsels of their hearts. Hence the Inquisition

was established as the means best adapted to secure the desired end. So long as men grant the proposition that it is within the province of civil government to enforce morality, it is to very little purpose that they condemn the Inquisition ; for that tribunal is only the logical result of the proposition.

By all these evidences is established the plain, common-sense principle that to civil government pertains only that which the term itself implies,—that which is civil. The purpose of civil government is civil, and not moral. Its function is to preserve order in society, and to cause all its subjects to rest in assured safety, by guarding them against all incivility. Morality belongs to God ; civility, to the State. Morality must be rendered to God ; civility, to the State. “Render therefore unto Cæsar the things which are Cæsar’s ; and unto God the things that are God’s.” *

But it may be asked, Does not the civil power enforce the observance of the commandments of God, which say, Thou shalt not steal, thou shalt not kill, thou shalt not commit adultery, and thou shalt not bear false witness ? Does not the civil power punish the violation of these commandments of God ? *Answer.* — The civil power does not enforce these, nor does it punish the violation of them, *as commandments of God.* The State does forbid murder and theft and perjury, and some States forbid adultery, but not as commandments of God. From time immemorial, governments that knew nothing about God, have forbidden these things. If the civil power at-

* There is an accommodated sense in which the word *morality* is used, in which it is made to refer only to men’s relations to their fellow-men ; and with reference to this view of morality, it is sometimes said that the civil power is to enforce morality *upon a civil basis.* But morality on a civil basis is only civility, and the enforcement of morality upon a civil basis is the enforcement of civility, and nothing else. Without the Inquisition it is impossible for civil government ever to carry its jurisdiction beyond civil things, or to enforce anything but civility.

tempted to enforce these as the commandments of God, it would have to punish as a murderer the man who hates another; it would have to punish as a perjurer the man who raises a false report; it would have to punish as an adulterer the person who thinks impurely; it would have to punish as a thief the man who wishes to cheat his neighbor; because all these things are violations of the commandments of God. Therefore if the State is to enforce these things as the commandments of God, it will have to punish the thoughts and intents of the heart; but this is not within the province of any earthly power, and it is clear that any earthly power that should attempt it, would thereby simply put itself in the place of God, and usurp his prerogative.

More than this, such an effort would be an attempt to punish sin, because transgression of the law of God is sin; but sins will be forgiven upon repentance, and God does not punish the sinner for the violation of his law, when his sins are forgiven. Now if the civil power undertakes to enforce the observance of the law of God, it cannot justly enforce that law upon the transgressor whom God has forgiven. For instance, suppose a man steals twenty dollars from his neighbor, and is arrested, prosecuted, and found guilty. But suppose that between the time that he is found guilty and the time when sentence is to be passed, the man repents, and is forgiven by the Lord. Now he is counted by the Lord as though he never had violated the law of God. The commandment of God does not stand against him for that transgression. And as it is the law of God that the civil law started out to enforce, the civil power also must forgive him, count him innocent, and let him go free. More than this, the statute of God says, "If thy brother trespass against thee, rebuke him; and if he repent, forgive him. And if he trespass against thee seven times in a day, and

seven times in a day turn again to thee, saying, I repent ; thou shalt forgive him." If civil government is to enforce the law of God, when a man steals, or commits perjury or any form of violence, and is arrested, if he says, "I repent," he must be forgiven ; if he does it again, is again arrested, and again says, "I repent," he must be forgiven ; and if he commits it seven times in a day, and seven times in a day says, "I repent," he must be forgiven. It will be seen at once that any such system would be utterly destructive of civil government ; and this only demonstrates conclusively that no civil government can ever of right have anything to do with the enforcement of the commandments of God as such, or with making the Bible its code of laws.

God's government can be sustained by the forgiveness of the sinner to the uttermost, because by the sacrifice of Christ he has made provision "to save them to the uttermost that come unto God by him ; seeing he ever liveth to make intercession for them ;" but in civil government, if a man steals, or commits any other crime, and is apprehended and found guilty, it has nothing to do with the case if the Lord does forgive him ; he must be punished. The following remarks of Prof. W. T. Harris, late superintendent of public schools in the city of St. Louis, are worthy of careful consideration in this connection :—

"A crime, or breach of justice, is a deed of the individual, which the State, by its judicial acts, returns on the individual. The State furnishes a measure for crime, and punishes criminals according to their deserts. The judicial mind is a measuring mind, a retributive mind, because trained in the forms of justice which sees to it that every man's deed shall be returned to him, to bless him or to curse him with pain. Now, a sin is a breach of the law of holiness, a lapse out of the likeness to the divine form, and as such it utterly refuses to be measured. It is infinite death to lapse out of the form of the divine. A sin

cannot be atoned for by any finite punishment, but only (as revelation teaches) by a divine act of sacrifice. . . . It would destroy the State to attempt to treat crimes as sins, and to forgive them in case of repentance. It would impose on the judiciary the business of going behind the overt act to the disposition or frame of mind within the depth of personality. But so long as the deed is not uttered in the act, it does not belong to society, but only to the individual and to God. No human institution can go behind the overt act, and attempt to deal absolutely with the substance of man's spiritual freedom. . . . Sin and crime must not be confounded, nor must the same deed be counted as crime and sin by the same authority. Look at it as crime, and it is capable of measured retribution. The law does not pursue the murderer beyond the gallows. He has expiated his crime with his life. But the slightest sin, even if it is no crime at all, as for example the anger of a man against his brother, an anger which does not utter itself in the form of violent deeds, but is pent up in the heart,—such non-criminal sin will banish the soul forever from heaven, unless it is made naught by sincere repentance."

The points already presented in this chapter are perhaps sufficient in this place to illustrate the principle announced in the word of Christ; and although that principle is plain, and is readily accepted by the sober, common-sense thought of every man, yet through the selfish ambition of men the world has been long in learning and accepting the truth of the lesson. The United States is the first and only government in history that is based on the principle established by Christ. In Article VI. of the national Constitution, this nation says that "no religious test shall ever be required as a qualification to any office or public trust under the United States." By an amendment making more certain the adoption of the principle, it declares in the first amendment to the Constitution, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise there-

of." This first amendment was adopted in 1789, by the first Congress that ever met under the Constitution. In 1796 a treaty was made with Tripoli, in which it was declared (Article II.) that "the Government of the United States of America is not in any sense founded on the Christian religion." This treaty was framed by an ex-Congregationalist clergyman, and was signed by President Washington. It was not out of disrespect to religion or Christianity that these clauses were placed in the Constitution, and that this one was inserted in that treaty. On the contrary, it was entirely on account of their respect for religion, and the Christian religion in particular, as being beyond the province of civil government, pertaining solely to the conscience, and resting entirely between the individual and God. It was because of this that this nation was Constitutionally established according to the principle of Christ, demanding of men only that they render to Cæsar that which is Cæsar's, and leaving them entirely free to render to God that which is God's, if they choose, as they choose, and when they choose ; or, as expressed by Washington himself, in reply to an address upon the subject of religious legislation :—

"Every man who conducts himself as a good citizen, is accountable alone to God for his religious faith, and should be protected in worshiping God according to the dictates of his own conscience."

We cannot more fitly close this chapter than with the following tribute of George Bancroft to this principle, as embodied in the words of Christ, and in the American Constitution :—

"In the earliest States known to history, government and religion were one and indivisible. Each State had its special deity, and often these protectors, one after another, might be overthrown in battle, never to rise again. The Peloponnesian War grew out of a strife about

an oracle. Rome, as it sometimes adopted into citizenship those whom it vanquished, introduced in like manner, and with good logic for that day, the worship of their gods. No one thought of vindicating religion for the conscience of the individual, till a voice in Judea, breaking day for the greatest epoch in the life of humanity, by establishing a pure, spiritual, and universal religion for all mankind, enjoined to render to Cæsar only that which is Cæsar's. The rule was upheld during the infancy of the gospel for all men. No sooner was this religion adopted by the chief of the Roman empire, than it was shorn of its character of universality, and enthralled by an unholy connection with the unholy State; and so it continued till the new nation,—the least defiled with the barren scoffings of the eighteenth century, the most general believer in Christianity of any people of that age, the chief heir of the Reformation in its purest forms,—when it came to establish a government for the United States, refused to treat faith as a matter to be regulated by a corporate body, or having a headship in a monarch or a State.

“Vindicating the right of individuality even in religion, and in religion above all, the new nation dared to set the example of accepting in its relations to God the principle first divinely ordained of God in Judea. It left the management of temporal things to the temporal power; but the American Constitution, in harmony with the people of the several States, withheld from the Federal Government the power to invade the home of reason, the citadel of conscience, the sanctuary of the soul; and not from indifference, but that the infinite Spirit of eternal truth might move in its freedom and purity and power.”—*History of the Formation of the Constitution*, last chapter.

Thus the Constitution of the United States as it is, stands as the sole monument of all history representing the principle which Christ established for earthly government. And under it, in liberty, civil and religious, in enlightenment, and in progress, this nation has deservedly stood as the beacon-light of the world, for a hundred years.

CHAPTER III.

THE POWERS THAT BE.

IN support of the doctrine that civil government has the right to act in things pertaining to God, the text of Scripture is quoted which says, "The powers that be are ordained of God." This passage is found in Rom. 13 : 1. The first nine verses of the chapter are devoted to this subject, showing that the powers that be are ordained of God, and enjoining upon Christians, upon every soul in fact, the duty of respectful subjection to civil government. The whole passage reads as follows :—

"Let every soul be subject unto the higher powers. For there is no power but of God : the powers that be are ordained of God. Whosoever therefore resisteth the power, resisteth the ordinance of God ; and they that resist shall receive to themselves damnation. For rulers are not a terror to good works, but to the evil. Wilt thou then not be afraid of the power ? do that which is good, and thou shalt have praise of the same : for he is the minister of God to thee for good. But if thou do that which is evil, be afraid : for he beareth not the sword in vain ; for he is the minister of God, a revenger to execute wrath upon him that doeth evil. Wherefore ye must needs be subject not only for wrath, but also for conscience' sake. For, for this cause pay ye tribute also ; for they are God's ministers, attending continually upon this very thing. Render therefore to all their dues : tribute to whom tribute is due ; custom to whom custom ; fear to whom fear ; honor to whom honor. Owe no man anything, but to love one another ; for he that loveth another

hath fulfilled the law. For this, Thou shalt not commit adultery, Thou shalt not kill, Thou shalt not steal, Thou shalt not bear false witness, Thou shalt not covet: and if there be any other commandment, it is briefly comprehended in this saying, namely, Thou shalt love thy neighbor as thyself."

It is easy to see that this scripture is but an exposition of the words of Christ, "Render to Cæsar the things that are Cæsar's." In the Saviour's command to render unto Cæsar the things that are Cæsar's, there is plainly a recognition of the rightfulness of civil government, and that civil government has claims upon us which we are in duty bound to recognize, and that there are things which duty requires us to render to the civil government. This scripture in Romans 13 simply states the same thing in other words: "Let every soul be subject unto the higher powers. For there is no power but of God: the powers that be are ordained of God."

Again, the Saviour's words were called out by a question concerning tribute. They said to him, "Is it lawful to give tribute unto Cæsar, or not?" Rom. 13:6 refers to the same thing, saying, "For, for this cause pay ye tribute also; for they are God's ministers, attending continually upon this very thing." In answer to the question of the Pharisees about the tribute, Christ said, "Render therefore unto Cæsar the things which are Cæsar's." Rom. 13:7, taking up the same thought, says, "Render therefore to all their dues: tribute to whom tribute is due; custom to whom custom; fear to whom fear; honor to whom honor." These references make positive that which we have stated,—that this portion of Scripture (Rom. 13:1-9) is a divine commentary upon the words of Christ in Matt. 22:17-21.

In the previous chapter we have shown by many proofs that civil government has nothing to do with anything that pertains to God. If the argument in that chapter is

sound, then Rom. 13:1-9, being the Lord's commentary upon the words which are the basis of that argument, ought to confirm the position there taken. And this it does.

The passage in Romans refers first to civil government, the higher powers, — not the highest power, but the powers that be. Next it speaks of rulers, as bearing the sword and attending upon matters of tribute. Then it commands to render tribute to whom tribute is due, and says, "Owe no man any thing; but to love one another; for he that loveth another hath fulfilled the law." Then he refers to the sixth, seventh, eighth, ninth, and tenth commandments, and says, "If there be any other commandment, it is briefly comprehended in this saying, namely, Thou shalt love thy neighbor as thyself."

There are other commandments of this same law to which Paul refers. Why, then, did he say, "If there be any other commandment, it is briefly comprehended in this saying, Thou shalt love thy neighbor as thyself"? There are the four commandments of the first table of this same law, — the commandments which say, "Thou shalt have no other gods before me; Thou shalt not make any graven image, or any likeness of any thing; Thou shalt not take the name of the Lord thy God in vain; Remember the Sabbath day to keep it holy." Then there is the other commandment in which are briefly comprehended all these, — "Thou shalt love the Lord thy God with all thy heart, and with all thy soul, and with all thy mind, and with all thy strength."

Paul knew full well of these commandments. Why, then, did he say, "If there be any other commandment, it is briefly comprehended in this saying, Thou shalt love thy neighbor as thyself"? *Answer.* — Because he was writing concerning the words of the Saviour which relate to our duties to civil government.

Our duties under civil government pertain solely to the government and to our fellow-men, because the powers of civil government pertain solely to men in their relations one to another, and to the government. But the Saviour's words in the same connection entirely separated that which pertains to God from that which pertains to civil government. The things which pertain to God are not to be rendered to civil government—to the powers that be; therefore Paul, although knowing full well that there were other commandments, said, "If there be any other commandment, it is briefly comprehended in this saying, Thou shalt love thy neighbor as thyself;" that is, if there be any other commandment which comes into the relation between man and civil government, it is comprehended in this saying, that he shall love his neighbor as himself; thus showing conclusively that the powers that be, though ordained of God, are so ordained simply in things pertaining to the relation of man with his fellow-men, and in those things alone.

Further, as in this divine record of the duties that men owe to the powers that be, there is no reference whatever to the first table of the law, it therefore follows that the powers that be, although ordained of God, have nothing whatever to do with the relations which men bear toward God.

As the ten commandments contain the whole duty of man, and as in the scriptural enumeration of the duties that men owe to the powers that be, there is no mention of any of the things contained in the first table of the law, it follows that none of the duties enjoined in the first table of the law of God, do men owe to the powers that be; that is to say, again, that the powers that be, although ordained of God, are not ordained of God in anything pertaining to a single duty enjoined in any one of the first four of the ten commandments. These are

duties that men owe to God, and with these the powers that be can of right have nothing to do, because Christ has commanded to render unto God — not to Cæsar, nor by Cæsar — that which is God's.

This is confirmed by other scriptures : —

“In the beginning of the reign of Jehoiakim, the son of Josiah king of Judah, came this word unto Jeremiah from the Lord, saying, Thus saith the Lord to me : Make thee bonds and yokes, and put them upon thy neck, and send them to the king of Edom, and to the king of Moab, and to the king of the Ammonites, and to the king of Tyrus, and to the king of Zidon, by the hand of the messengers which come to Jerusalem unto Zedekiah king of Judah, and command them to say unto their masters, Thus saith the Lord of hosts, the God of Israel : Thus shall ye say unto your masters : I have made the earth, the man and the beast that are upon the ground, by my great power and by my outstretched arm, and have given it unto whom it seemed meet unto me. And now have I given all these lands into the hand of Nebuchadnezzar the king of Babylon, my servant ; and the beasts of the field have I given him also to serve him. And all nations shall serve him, and his son, and his son's son, until the very time of his land come, and then many nations and great kings shall serve themselves of him. And it shall come to pass that the nation and kingdom which will not serve the same Nebuchadnezzar the king of Babylon, and that will not put their neck under the yoke of the king of Babylon, that nation will I punish, saith the Lord, with the sword, and with the famine, and with the pestilence, until I have consumed them by his hand.”

In this scripture it is clearly shown that the power of Nebuchadnezzar, king of Babylon, was ordained of God ; nor to Nebuchadnezzar alone, but to his son and his son's son ; which is to say that the power of the Babylonian empire, as an imperial power, was ordained of God. Nebuchadnezzar was plainly called by the Lord, “My servant,” and the Lord says, “And now have I

given all these lands into the hand of Nebuchadnezzar the king of Babylon." He further says that whatever "nation and kingdom which will not serve the same Nebuchadnezzar the king of Babylon, and that will not put their neck under the yoke of the king of Babylon, that nation will I punish."

Now let us see whether this power was ordained of God in things pertaining to God. In the third chapter of Daniel we have the record that Nebuchadnezzar made a great image of gold, set it up in the plain of Dura, and gathered together the princes, the governors, the captains, the judges, the treasurers, the counselors, the sheriffs, and all the rulers of the provinces, to the dedication of the image; and they stood before the image that had been set up. Then a herald from the king cried aloud:—

"To you it is commanded, O people, nations, and languages, that at what time ye hear the sound of the cornet, flute, harp, sackbut, psaltery, dulcimer, and all kinds of music, ye fall down and worship the golden image that Nebuchadnezzar the king hath set up; and whoso falleth not down and worshipeth shall the same hour be cast into the midst of a burning fiery furnace."

In obedience to this command, all the people bowed down and worshiped before the image, except three Jews, Shadrach, Meshach, and Abed-nego. This disobedience was reported to Nebuchadnezzar, who commanded them to be brought before him, when he asked them if they had disobeyed his order intentionally. He himself then repeated his command to them.

* These men knew that they had been made subject to the king of Babylon by the Lord himself. It had not only been prophesied by Isaiah (chap. 39), but by Jeremiah. At the final siege of Jerusalem by Nebuchadnezzar, the Lord through Jeremiah told the people to submit to the king of Babylon, and that whosoever would do it

it should be well with them ; whosoever would not do it, it should be ill with them. Yet these men, knowing all this, made answer to Nebuchadnezzar thus :—

“O Nebuchadnezzar, we are not careful to answer thee in this matter. If it be so, our God whom we serve is able to deliver us from the burning fiery furnace, and he will deliver us out of thine hand, O king. But if not, be it known unto thee, O king, that we will not serve thy gods, nor worship the golden image which thou hast set up.”

Then these men were cast into the fiery furnace, heated seven times hotter than it was wont to be heated ; but suddenly Nebuchadnezzar rose up in haste and astonishment, and said to his counselors, “Did we not cast three men bound into the midst of the fire ?” They answered, “True, O king.” But he exclaimed, “Lo, I see four men loose, walking in the midst of the fire, and they have no hurt ; and the form of the fourth is like the Son of God.” The men were called forth ;—

“Then Nebuchadnezzar spake and said, Blessed be the God of Shadrach, Meshach, and Abed-nego, who hath sent his angel and delivered his servants that trusted in him, and have changed the king's word, and yielded their bodies, that they might not serve nor worship any god, except their own God.”

Here we have demonstrated the following facts : First, God gave power to the kingdom of Babylon ; second, he suffered his people to be subjected to that power ; third, he defended his people by a wonderful miracle from a certain exercise of that power. Does God contradict or oppose himself ?—Far from it. What, then, does this show ?—It shows conclusively that this was an undue exercise of the power which God had given. By this it is demonstrated that the power of the kingdom of Babylon, although ordained of God, was not ordained unto any such purpose as that for which it was exercised ; and

that though ordained of God, it was not ordained to be authority in things pertaining to God, or in things pertaining to men's consciences. And it was written for the instruction of future ages, and for our admonition upon whom the ends of the world are come.

Another instance: We read above that the power of Babylon was given to Nebuchadnezzar, and his son, and his son's son, and that all nations should serve Babylon until that time, and that then nations and kings should serve themselves of him. Other prophecies show that Babylon was then to be destroyed. Jer. 51:28 says that the kings of the Medes, and all his land, with the captains and rulers, should be prepared against Babylon to destroy it. Isa. 21:2 shows that Persia (Elam) should accompany Media in the destruction of Babylon. Isa. 45:1-4 names Cyrus as the leader of the forces, more than a hundred years before he was born, and one hundred and seventy-four years before the time. And of Cyrus, the prophet said from the Lord, "I have raised him up in righteousness, and I will direct all his ways; he shall build my city, and he shall let go my captives, not for price, nor reward, saith the Lord of hosts." Isa. 45:13. But in the conquest of Babylon, Cyrus was only the leader of the forces. The kingdom and rule were given to Darius the Mede; for, said Daniel to Belshazzar, on the night when Babylon fell, "Thy kingdom is divided, and given to the Medes and Persians." Then the record proceeds: "In that night was Belshazzar the king of the Chaldeans slain. And Darius the Median took the kingdom." Of him we read in Dan. 11:1, the words of the angel Gabriel to the prophet, "I, in the first year of Darius the Mede, even I, stood to confirm and to strengthen him."

There can be no shadow of doubt, therefore, that the power of Media and Persia was ordained of God. Darius made Daniel prime minister of the empire. But a num-

ber of the presidents and princes, envious of the position given to Daniel, attempted to undermine him. After earnest efforts to find occasion against him in matters pertaining to the kingdom, they were forced to confess that there was neither error nor fault anywhere in his conduct. Then said these men, "We shall not find any occasion against this Daniel, except we find it against him concerning the law of his God." They therefore assembled together to the king, and told him that all the presidents of the kingdom, and the governors, and the princes, and the captains, had consulted together to establish a royal statute, and to make a decree that whoever should ask a petition of any god or man, except the king, for thirty days, should be cast into the den of lions. Darius, not suspecting their object, signed the decree. Daniel knew that the decree had been made, and signed by the king. It was hardly possible for him not to know it, being prime minister. Yet notwithstanding his knowledge of the affair, he went into his chamber, and his windows being opened toward Jerusalem, he kneeled upon his knees three times a day, and prayed and gave thanks before God, as he did aforetime. He did not even close the windows. He paid no attention to the decree that had been made, although it forbade his doing as he did, under the penalty of being thrown to the lions. He well understood that although the power of Media and Persia was ordained of God, it was not ordained to interfere in matters of duty which he owed only to God.

As was to be expected, the men who had secured the passage of the decree, found him praying and making supplications before his God. They went at once to the king and asked him if he had not signed a decree that every man who should ask a petition of any god or man within thirty days, except of the king, should be cast into the den of lions. The king replied that this

was true, and that, according to the law of the Medes and Persians, it could not be altered. Then they told him that Daniel did not regard the king, nor the decree that he had signed, but made his petition three times a day. The king realized in a moment that he had been entrapped; but there was no remedy. Those who were pushing the matter, held before him the law, and said, "Know, O king, that the law of the Medes and Persians is, That no decree or statute which the king establisheth may be changed." Nothing could be done; the decree, being law, must be enforced. Daniel was cast to the lions. In the morning the king came to the den and called to Daniel, and Daniel replied, "O king, live forever; my God hath sent his angel, and hath shut the lions' mouths, that they have not hurt me: forasmuch as before him innocency was found in me; and also before thee, O king, have I done no hurt."

Thus again God has shown that although the powers that be are ordained of God, they are not ordained to act in things that pertain to men's relation toward God. Christ's words are a positive declaration to that effect, and Rom. 13:1-9 is a further exposition of the principle.

Let us look a moment at this question from a common-sense point of view; of course, all we are saying is common sense, but let us have this in addition: "When societies are formed, each individual surrenders certain rights, and as an equivalent for that surrender, has secured to him the enjoyment of certain others appertaining to his person and property, without the protection of which society cannot exist."

I have the right to protect my person and property from all invasions. Every other person has the same right; but if this right is to be personally exercised in all cases by every one, then in the present condition of human nature, every man's hand will be against his neigh-

bor. That is simple anarchy, and in such a condition of affairs society cannot exist. Now suppose a hundred of us are thrown together in a certain place where there is no established order ; each one has all the rights of any other one. But if each one is individually to exercise these rights of self-protection, he has the assurance of only that degree of protection which he alone can furnish to himself, which we have seen is exceedingly slight. Therefore all come together, and each surrenders to the whole body that individual right ; and in return for this surrender, he receives the power of all for his protection. He therefore receives the help of the other ninety-nine to protect himself from the invasion of his rights, and he is thus made many hundred times more secure in his rights of person and property than he is without this surrender.

But what condition of things can ever be conceived of among men that would justify any man in surrendering his right to believe ? What could he receive as an equivalent ? When he has surrendered his right to believe, he has virtually surrendered his right to think. When he surrenders his right to believe, he surrenders everything, and it is impossible for him ever to receive an equivalent ; he has surrendered his very soul. Eternal life depends upon believing on the Lord Jesus Christ, and the man who surrenders his right to believe, surrenders eternal life. Says the Scripture, "With the mind I myself serve the law of God." A man who surrenders his right to believe, surrenders God. Consequently, no man, no association or organization of men, can ever rightly ask of any man a surrender of his right to believe. Every man has the right, so far as organizations of men are concerned, to believe as he pleases ; and that right, so long as he is a Protestant, so long as he is a Christian, yes, so long as he is a man, he never can surrender, and he never will.

Another important question to consider in this connection is, How are the powers that be, ordained of God? Are they directly and miraculously ordained, or are they providentially so? We have seen by the Scripture that the power of Nebuchadnezzar as king of Babylon, was ordained of God. Did God send a prophet or a priest to anoint him king? or did he send a heavenly messenger, as he did to Moses and Gideon?—Neither. Nebuchadnezzar was king because he was the son of his father, who had been king. How did his father become king?—In 625 B. C., Babylonia was but a province of the empire of Assyria; Media was another. Both revolted, and, at the same time. The king of Assyria gave Nabopolassar command of a large force, and sent him to Babylonia to quell the revolt, while he himself led other forces into Media, to put down the insurrection there. Nabopolassar did his work so well in Babylonia that the king of Assyria rewarded him with the command of that province, with the title of King of Babylon. Thus we see that Nabopolassar received his power from the king of Assyria. The king of Assyria received his from his father, Asshur-bani-pal; Asshur-bani-pal received his from his father, Esar-haddon; Esar-haddon received his from his father, Sennacherib; Sennacherib received his from his father, Sargon; and Sargon received his from the troops in the field, that is, from the people. Thus we see that the power of the kingdom of Babylon, and of Nebuchadnezzar the king, or of his son, or of his son's son, was simply providential, and came merely from the people.

Take, for example, Victoria, queen of Great Britain. How did she receive her power?—Simply by the fact that she was the first in the line of succession when William the Fourth died. Through one line she traces her royal lineage to William the Conqueror. But who was William the Conqueror?—He was a Norman chief

who led his forces into England in 1066, and established his power there. How did he become a chief of the Normans?—The Normans made him so, and in that line it is clear that the power of Queen Victoria sprung only from the people.

Following the other line: The house that now rules Britain, represented in Victoria, is the house of Hanover. Hanover is a province of Germany. How came the house of Hanover to reign in England?—When Queen Anne died, the next in the line of succession was George of Hanover, who became king of England under the title of George the First. How did he receive his princely dignity?—Through his lineage, from Henry the Lion, son of Henry the Proud, who received the duchy of Saxony from Frederick Barbarossa, in 1156. Henry the Lion, son of Henry the Proud, was a prince of the house of Guelph, of Swabia. The father of the house of Guelph was a prince of the Alamanni who invaded the Roman empire, and established their power in what is now Southern Germany, and were the origin of what is now the German nation and empire. But who made this man a prince?—The savage tribes of Germany. So in this line also the royal dignity of Queen Victoria sprung from the people.

And besides all this, the imperial power of Queen Victoria as she now reigns is circumscribed—limited—by the people. It has been related, and has appeared in print, and although the story may not be true, it will serve to illustrate the point, that on one occasion, Gladstone, while prime minister and head of the House of Commons, took a certain paper to the queen to be signed. She did not exactly approve of it, and said she would not sign it. Gladstone spoke of the merit of the act, but the queen still declared she would not sign it. Gladstone replied, "Your Majesty *must* sign it." "*Must* sign!" ex-

claimed the queen; "*must* sign! Do you know who I am? I am the queen of England." Gladstone calmly replied, "Yes, Your Majesty, but I am the PEOPLE of England;" and she had to sign it. The people of England can command the queen of England; the power of the people of England is above that of the queen of England. She, as queen, is simply the representative of their power. And if the people of England should choose to dispense with their expensive luxury of royalty, and turn their form of government into that of a republic, it would be but legitimate exercise of their right, and the government thus formed, the power thus established, would be ordained of God as much as that which now is, or as any could be.

Personal sovereigns in themselves are not those referred to in the words, "The powers that be are ordained of God." It is the governmental power of which the sovereign is the representative, and that sovereign receives his power from the people. Outside of the theocracy of Israel, there never has been a ruler on earth whose authority was not, primarily or ultimately, expressly or permissively, derived from the people. It is not particular sovereigns whose power is ordained of God, nor any particular form of government. *It is the genius of government itself.* The absence of government is anarchy. Anarchy is only governmental confusion. But says the Scripture, "God is not the author of confusion." God is the God of order. He has ordained order, and he has put within man himself that idea of government, of self-protection, which is the first law of nature, and which organizes itself into forms of one kind or another, wherever men dwell on the face of the earth. And it is for men themselves to say what shall be the form of government under which they shall dwell. One people has one form; another has another. This genius of civil order

springs from God ; its exercise within its legitimate sphere is ordained of God ; and the Declaration of Independence simply asserted the eternal truth of God, when it said : "Governments derive their just powers from the consent of the governed." It matters not whether it be exercised in one form of government or in another, the governmental power and order thus exercised is ordained of God. If the people choose to change their form of government, it is still the same power ; it is to be respected still, because it is still ordained of God in its legitimate exercise, — in things pertaining to men and their relation to their fellow-men ; but no power, whether exercised through one form or another, is ordained of God to act in things pertaining to God ; nor has it anything whatever to do with men's relations toward God.

In the previous chapter we have shown that the Constitution of the United States is the only form of government that has ever been on earth which is in harmony with the principle announced by Christ, demanding of men only that which is Cæsar's, and refusing to enter in any way into the field of man's relationship to God. This Constitution originated in the principles of the Declaration of Independence, and here we have found that the Declaration of Independence, on this point, simply asserts the truth of God. The American people do not half appreciate the value of the Constitution under which they live. They do not honor in any fair degree the noble men who pledged their lives, their fortunes, and their sacred honor, that these principles might be the heritage of posterity. All honor to these noble men ! All integrity to the principles of the Declaration of Independence ! All allegiance to the Constitution as it is, which gives to Cæsar all his due, and leaves men free to render to God all that he, in his holy word, requires of them !

CHAPTER IV.

THE RELIGIOUS ATTACK UPON THE UNITED STATES CONSTITUTION, AND THOSE WHO ARE MAKING IT.

THE principles set forth in the three preceding chapters are the genuine principles of Jesus Christ. The United States Constitution as it is, with its total separation of religion and the State, is in perfect harmony with these principles. It is evident, therefore, that any attempt to introduce into our national Constitution any religion, even though it be, professedly, the Christian religion, would be subversive of the principles of Christ. Any such attempt would be anti-Christian, and would be fraught with the greatest danger that could threaten the liberties of men, and with the worst evils that could befall a nation. Such an attempt is not only being made, but is so far advanced as to make this a subject of the very first importance to every lover of Christianity or human rights.

In the United States Senate, Dec. 9, 1889, there was offered by Senator H. W. Blair, of New Hampshire, the following joint resolution, which was only a re-introduction of a joint resolution offered by the same gentleman, May 25, 1888. We present an exact copy:—

“51ST CONGRESS, }
1ST SESSION. } S. R. 17.

“Joint resolution proposing an amendment to the Constitution of the United States respecting establishments of religion and free public schools.

“*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two thirds of each House concurring therein),*

That the following Amendment to the Constitution of the United States be, and hereby is, proposed to the States, to become valid when ratified by the legislatures of three fourths of the States as provided in the Constitution :—

“ARTICLE.

“SECTION 1. No State shall ever make or maintain any law respecting an establishment of religion, or prohibiting the free exercise thereof.

“SEC. 2. Each State in this Union shall establish and maintain a system of free public schools adequate for the education of all children living therein, between the ages of six and sixteen years, inclusive, in the common branches of learning, in virtue and morality, and in knowledge of the fundamental and non sectarian principles of Christianity. But no money raised by taxation imposed by law, or any money or other property or credit belonging to any municipal organization, or to any State, or to the United States, shall ever be appropriated, applied, or given to the use or purposes of any school, institution, corporation, or person, whereby instruction or training shall be given in the doctrines, tenets, beliefs, ceremonials, or observances peculiar to any sect, denomination, organization, or society, being, or claiming to be, religious in its character, nor shall such peculiar doctrines, tenets, beliefs, ceremonials, or observances be taught or inculcated in the free public schools.

“SEC. 3. To the end that each State, the United States, and all the people thereof, may have and preserve governments republican in form and substance, the United States shall guaranty to every State and to the people of every State, and of the United States, the support and maintenance of such a system of free public schools as is herein provided.

“SEC. 4. That Congress shall enforce this article by legislation when necessary.”

This is identical with the original resolution introduced by the same gentleman in 1888, with the exception of the clause relating to the Christian religion. The original resolution said that the children should be taught “in the common branches of knowledge, and in virtue, morality, and in the principles of the Christian religion.” Whereas, this one reads, “in the common branches of learning, in virtue and morality, and in knowledge of the fundamental and non-sectarian principles of Christianity.” But nothing has been gained by this change. If it was intended to give the resolution less of a religious tone or character, by changing “the principles of the Christian religion” for “principles of Christianity,” the change is hardly worth

the effort required to make it ; because the principles of Christianity are certainly the principles of the Christian religion. Christianity is nothing else than simply the manifestation in life and character of the principles of the Christian religion. The insertion of the word "non-sectarian," as describing the principles of Christianity which should be taught, simply makes tautology in the section, because the following part of the section is wholly taken up in the effort to say that no sectarian doctrines, beliefs, or ceremonials shall be taught or inculcated in the public schools.

Which of the principles of Christianity are sectarian and which are non-sectarian? If Christianity, itself alone, is not sectarian, then none of the principles of Christianity can possibly be sectarian. If any of the principles of Christianity be sectarian, then all of them are. Because Christianity as it is, is a definite and positive thing. It is not a wishy-washy mixture of fast-and-loose principles. For this reason alone, to say nothing of any other, every man who has any respect for Christianity ought to oppose this amendment with all his might.

Section 1 as it stands, if it stood alone, would be worthy of the hearty support of every person in the United States ; because it declares just what ought to be an inhibition upon all the States. There is a question whether the States are not already forbidden to do this under the Fourteenth Amendment ; but if it be not certainly decided there, such an amendment as the first section of this resolution should be adopted as a part of the Constitution of the United States. Then the States would stand upon the same level as the Government of the United States. If this were once done, and the legislation, both State and national, were kept in harmony with the Constitutional provisions, then religious liberty in this country would be perfect, as it ought to be. But unfortunately

for that measure in this resolution, its whole value is nullified by Sections 2 and 3 of the same resolution.

Although Section 1 distinctly says that no State shall ever make or maintain any law respecting an establishment of religion, or prohibiting the free exercise thereof, yet Section 2 just as distinctly says, that each State in this Union shall establish and maintain a system of free public schools, in which there shall be taught the knowledge of the principles of Christianity. Now, the only way in which any State can establish and maintain anything, is by law. Therefore, if the matter stopped with the second section, each State in the Union would be required, by Section 2, to do what, by Section 1, it is distinctly forbidden to do. But to prevent this contradiction in the terms of the resolution, Section 3 comes in and declares that "the United States shall guaranty to every State, and to the people of every State, and of the United States, the support and maintenance of such a system of free public schools as is herein provided." By this, it appears that although no State can select for itself any religion that might suit it best and make and maintain laws respecting the establishment of that religion, the United States will select the religion for all the States, and then require that each State shall establish and maintain that religion. None of the people of the States are supposed to be capable of deciding this question for themselves, but a majority of three fourths of the States are considered capable of deciding it for themselves and for all the others. Education would thus become a national matter, and would no more be subject to State control. This amendment, then, would nullify that part of Article VI. of the Constitution which declares that no religious test shall ever be required as a qualification to any office of public trust under this Government. Because, according to this amendment, a religious test would necessarily

have to be required as a qualification to the office of public school teacher, everywhere in the United States.

But the leading question of all to be decided, if this resolution should be adopted, is, What are the non-sectarian principles of Christianity? Granting the assumption of the resolution that such a distinction exists, the question then is, How shall the United States Government discover just what they are? Christianity is represented in the United States by probably a hundred different denominations. Each one of these holds to something different from all the others, which makes it the particular denomination it is. No one of these, therefore, can be taken as representing the non-sectarian principles of Christianity. Therefore, the only course to be pursued by which the United States Government can find out what are the non-sectarian principles of Christianity, is, by a general consensus of the principles of Christianity as held by all of the denominations in which Christianity is represented in the United States. This could not be secured by an examination of the creeds of the different denominations, because the leading denominations themselves do not agree upon their own creeds. There would be no remedy, therefore, other than to call a general convention of all the denominations of the United States, to discover what principles of the Christian religion are held in common by all, and are therefore non-sectarian in this country. This is the idea of the author of the resolution, as stated in a letter to the secretary of the National Reform Association, December, 1888. He said :—

“I believe that a text-book of instruction, in the principles of virtue, morality, and of the Christian religion, can be prepared for use in the public schools by the joint effort of those who represent every branch of the Christian Church, both Protestant and Catholic, and also those who are not actively associated with either.”

Let such a general convention of the representatives of Christianity in the United States be called; let the principles of Christianity which they should agree are non-sectarian, be formulated; that would be a national creed. Then let the United States Government adopt that creed, and enforce it as a part of the instruction in all the schools of the nation, and that would be nothing less than the establishment of a national religion. All the children of the country from six to sixteen years of age would then have to receive that as Christianity, and so would have to receive their religion from the State.

Nor would it stop with the children, because the probabilities are that in a national creed there would be some things, if not many, that would not be Christian principles at all. The parents who are Christians and who desire that their children shall be Christians, would soon discover this; and when their children were taught in the schools those things which are not according to Christianity, the parent would at once tell the child that he had been falsely instructed, that such was not Christianity; and could read directly from the Bible to show that it was not Christianity. This at once would bring on a controversy between the United States Government and the parents of the children. The question then would be, whether the Government would allow its authority to be directly opposed, and its purpose to be frustrated in its task of inculcating the principles of Christianity on the minds of the youth in this country. If the Government should yield, and allow the parents out of school to undo what the Government has done in school, then the Government might as well stop before it begins; for if one parent can do this, they can all do it. On the other hand, if the Government insists upon teaching the child religiously what the parent does not want that child taught, then the parent will take his child out of school and keep

him out of school. And if that shall be allowed, the Government will be no better off in the work of securing general education than it is now.

But as Section 3 pledges the power of the United States to the support and maintenance of such a system of public schools, and as Section 4 empowers Congress to enforce the provisions of the whole resolution by legislation when necessary, it is not to be supposed that in the controversy the Government will yield to the parent. If, therefore, the Government hold on its course, compulsory attendance at the public schools would have to be the next step ; and the next step after that would be to prohibit the parents from teaching the children out of school that which is contradictory to what the Government has taught in school. Thus it is clearly seen that to say that under such an amendment as this, all the *children* of the country would have to receive their religion from the Government, does not fully state the case by any means. The truth is, that under it, all *the people* of the United States would have to receive their religion from the Government. There could be no appeal. The Government makes itself supreme in all things, steps in between the parent and child, and so lands itself at once into downright paganism under the garb of the Christian name.

Does anybody who has any acquaintance with history need to be shown the perfect parallel between this and the formation of that union of church and state in the fourth century, which developed the papacy and all the religious despotism and intolerance that has been witnessed in Europe and America from that time to this? It was in this way precisely that the thing was worked in the fourth century. Constantine made Christianity the recognized religion of the Roman Empire. Then it became at once necessary that there should be an imperial decision as to what form of Christianity should be the

imperial religion. To effect this, an imperial council was necessary to formulate that phase of Christianity which was common to all. The Council of Nice was convened by imperial command, and an imperial creed was established, which was enforced by imperial power. That establishment of an imperial religion ended only in the imperious despotism of the papacy. And as surely as the complete establishment of the papacy followed, and grew out of, that imperial recognition of Christianity in the fourth century, just so surely will the complete establishment of a religious despotism after the living likeness of the papacy, follow, and grow out of, this national recognition of Christianity provided for in the Constitutional amendment proposed by Senator Blair, and which is now pending in Congress.

In proof of this, we have not only the logical deduction and the historical example, but in addition to these we have living, present facts. We mentioned above, Senator Blair's letter to the secretary of the National Reform Association. This letter was written in answer to an invitation to the senator to attend a meeting in Philadelphia in support of the proposed amendment. The initiative in bringing about this meeting was taken by the National Reform Association. This Association has been working for twenty-five years to secure an amendment to the national Constitution, making Christianity the established religion. Senator Blair's proposed amendment furnishes them just what they have so long wanted, and ever since he offered it, they have been diligently working to make it popular.

The *Christian Statesman*, published in Philadelphia, is the official organ of the Association, and in the issue of July 12, 1888, the editor says the amendment "should receive the strenuous support of all American Christians." In the issue of July 19, he says : —

"Senator Blair's proposed Constitutional amendment furnishes an admirable opportunity for making the ideas of the National Reform Association familiar to the minds of the people."

Then after mentioning "Christianity, the religion of the nation," and "the Bible, the text-book of our common Christianity in all the schools," he says:—

"These have been our watch-words in the discussions of a quarter of a century. And now these ideas are actually pending before the Senate of the United States, in the form of a joint resolution proposing their adoption as a part of the Constitution of the United States. Here is a great opportunity. Shall we boldly and wisely improve it?"

In the *Statesman* of July 26, 1888, Rev. J. C. K. Milligan, once a district secretary, and still a leading member of that Association, says to the editor:—

"Your editorial of July 12, on a Christian Constitutional amendment pending in the Senate, is most gratifying news to every Christian patriot. It seems too good to be true. It is too good to prevail without a long pull, a strong pull, and a pull all together on the part of its friends; but it is so good that it surely will have many friends who will put forth the necessary effort. True, the pending amendment has its chief value in one phrase, "the Christian religion;" but if it shall pass into our fundamental law, that one phrase will have all the potency of Almighty God, of Christ the Lord, of the Holy Bible, and of the Christian world, with it. By letters to senators and representatives in Congress, by petitions numerously signed and forwarded to them, by local, State, and national conventions held, and public meetings in every school district, such an influence can quickly be brought to bear as will compel our legislators to adopt the measure, and enforce it by the needed legislation. The Christian pulpits, if they would, could secure its adoption before the dog-days end. The National Reform Association, the *Christian Statesman*, and the secretaries in the

field are charged with this work, and will not be wanting as leaders in the cause."

In the same paper of August 9, Rev. R. C. Wylie praises the proposed amendment, because it would, if adopted, give the National Reformers an advantage which they have not now. He says:—

"We would then have a vantage ground we have not now. The leading objection that has been urged against us will have lost its power. That objection, which has such a tender regard for the infidel conscience, will have spent its force against this amendment, and will be no more fit for use against us."

The charge of an intention to invade the rights of conscience has been the leading one against the National Reform Association. But says Mr. Wylie, If this amendment is carried, this charge will lie against the amendment, and will spend itself there, while the National Reformers will escape. This charge is justly made against the National Reformers, for they distinctly affirm that the civil power has the right to compel the consciences of men. And the admission that if the amendment were adopted the charge would then lie against that, is a confession that the proposed amendment, if adopted, will invade the rights of conscience. And that is the truth. It will surely do so.

John Alexander, the father of the movement, who gives five hundred dollars every year to help it forward, and in his will has provided that the same amount shall be paid every year from his estate until the movement shall have proved a success, and who gives a thousand dollars at times besides all this, in the *Christian Statesman* of Sept. 6, 1888, congratulated the Association on the introduction of the Blair amendment, and said, "the National Reform Association ought to spare no pains and

omit no effort which may promise to secure its adoption ;" and further says :—

"Let us begin without delay the circulation of petitions (to be furnished in proper form by the Association), and let an opportunity be given to all parts of the country to make up a roll of petitions so great that it will require a procession of wheelbarrows to trundle the mighty mass into the presence of the representatives of the nation in the House of Congress. . . . Let a mass convention of the friends of the cause be held in Washington, when the Blair resolution shall be under discussion, to accompany with its influence the presentation of the petitions, and to take such other action as may be deemed best to arouse the nation to a genuine enthusiasm in behalf of our national Christianity."

This is how the Blair Constitutional amendment is viewed by these people. Now let us see what they propose to do with it when they get it.

The *Christian Statesman* of Oct. 2, 1884, said :—

"Give all men to understand that this is a Christian nation, and that, believing that without Christianity we perish, we must maintain by all means our Christian character. Inscribe this character on our Constitution. Enforce upon all who come among us the laws of Christian morality."

To enforce upon men the laws of Christian morality, is nothing else than an attempt to compel them to be Christians, and does in fact compel them to be hypocrites. It will be seen at once that this will be but to invade the rights of conscience, and this, one of the vice-presidents of the Association declares, civil power has the right to do. Rev. David Gregg, D. D., now pastor of Park Street Church, Boston, a vice-president of the National Reform Association, plainly declared in the *Christian Statesman* of June 5, 1884, that the civil power "has the right to command the consciences of men."

Rev. M. A. Gault, a district secretary and a leading worker of the Association, says : —

“ Our remedy for all these malefic influences, is to have the Government simply set up the moral law and recognize God's authority behind it, and lay its hand on any religion that does not conform to it.”

Rev. E. B. Graham, also a vice-president of the Association, in an address delivered at York, Neb., and reported in the *Christian Statesman* of May 21, 1885, said : —

“ We might add in all justice, If the opponents of the Bible do not like our Government and its Christian features, let them go to some wild, desolate land, and in the name of the Devil, and for the sake of the Devil, subdue it, and set up a government of their own on infidel and atheistic ideas ; and then if they can stand it, stay there till they die.”

How much different is that from the Russian despotism ? In the *Century* for April, 1888, Mr. Kennan gave a view of the statutes of Russia on the subject of crimes against the faith, quoting statute after statute providing that whoever shall censure the Christian faith or the orthodox church, or the Scriptures, or the holy sacraments, or the saints, or their images, or the Virgin Mary, or the angels, or Christ, or God, shall be deprived of all civil rights, and exiled for life to the most remote parts of Siberia. This is the system in Russia, and it is in the direct line of the wishes of the National Reform Association, with this difference, however, that Russia is content to send dissenters to Siberia, while the National Reformers want to send them to the Devil, straight.

In a speech in a National Reform convention held in New York City, Feb. 26, 27, 1873, Jonathan Edwards, D. D., said : —

"We want State and religion, and we are going to have it. It shall be that so far as the affairs of State require religion, it shall be religion — the religion of Jesus Christ. The Christian oath and Christian morality shall have in this land 'an undeniable legal basis.' We use the word *religion* in its proper sense, as meaning a man's personal relation of faith and obedience to God."

Then according to their own definition, the National Reform Association intends that the State shall obtrude itself into every man's personal relation of faith and obedience to God. Mr. Edwards proceeds:—

"Now, we are warned that to ingraft this doctrine upon the Constitution will be oppressive; that it will infringe the rights of conscience; and we are told that there are atheists, deists, Jews, and Seventh-day Baptists who would be sufferers under it."

He then defines the terms, *atheist*, *deist*, *Jew*, and *Seventh-day Baptist*, and counts them all atheists, as follows:—

"These all are, for the occasion, and so far as our amendment is concerned, one class. They use the same arguments and the same tactics against us. They must be counted together, which we very much regret, but which we cannot help. The first-named is the leader in the discontent and in the outcry — the atheist, to whom nothing is higher or more sacred than man, and nothing survives the tomb. It is his class. Its labors are almost wholly in his interest; its success would be almost wholly his triumph. The rest are adjuncts to him in this contest. They must be named from him; they must be treated as, for this question, one party."

What now are the rights of the National Reform classification of atheists? Mr. Edwards asks the question and answers it thus:—

"What are the rights of the atheist? I would tolerate him as I would tolerate a poor lunatic; for in my view his mind is scarcely sound. So long as he does not rave,

so long as he is not dangerous, I would tolerate him. I would tolerate him as I would a conspirator. The atheist is a dangerous man."

Let us inquire for a moment what are the rights of the atheist. So far as earthly governments are concerned, has not any man just as much right to be an atheist as any other man has to be a Christian? If not, why not? We wish somebody would tell. Has not any man just as much right to be an atheist as Jonathan Edwards has to be a Doctor of Divinity? Can you compel him to be anything else? But how long does Mr. Edwards propose to tolerate him?—"So long as he does not rave." A lunatic may be harmless, and be suffered to go about as he chooses; yet he is kept under constant surveillance, because there is no knowing at what moment the demon in him may carry him beyond himself, and he become dangerous. Thus the National Reformers propose to treat those who disagree with them. So long as dissenters allow themselves to be cowed down like a set of curs, and submit to be domineered over by these self-exalted despots, all may go well; but if a person has the principle of a man, and asserts his convictions as a man ought to, then he is "raving," then he becomes "dangerous," and must be treated as a raving, dangerous lunatic.

Next, dissenters are to be tolerated as conspirators are. A political conspirator is one who seeks to destroy the Government itself; he virtually plots against the life of every one in the Government; and in that, he has forfeited all claims to the protection of the Government or the regard of the people. And this is the way dissenters are to be treated by the National Reformers, when they shall have secured the power they want. And these are the men to whom Senator Blair's proposed Constitutional amendment is intensely satisfactory, as that which, if adopted, will assure them, in the end, that which they want.

Mr. Edwards proceeds :—

“Yes, to this extent I will tolerate the atheist ; but no more. Why should I? The atheist does not tolerate me. He does not smile either in pity or in scorn upon my faith. He hates my faith, and he hates me for my faith.”

Remember that these men propose to make this a Christian nation. These are they who propose themselves as the supreme expositors of Christian doctrine in this nation. What beautiful harmony there is between these words of Mr. Edwards and those of the sermon on the mount! Did the Saviour say, Hate them that hate you ; despise them that will not tolerate you ; and persecute them that do not smile upon your faith? Is that the sermon on the mount?—It is *not* the sermon on the mount. Jesus said, “Love your enemies ; bless them that curse you, do good to them that hate you, and pray for them which despitefully use you, and persecute you ; that ye may be the children of your Father which is in heaven.” But this National Reform style of Christianity would have it : “Hate your enemies ; oppress them that hate you ; and persecute them who will not smile, either in pity or in scorn, upon your faith, that you may be the true children of the National Reform party ;” and that is what you will be, if you do it.

But Mr. Edwards has not yet finished displaying his tolerant ideas ; he says :—

“I can tolerate difference and discussion ; I can tolerate heresy and false religion ; I can debate the use of the Bible in our common schools, the taxation of church property, the propriety of chaplaincies and the like, but there are some questions past debate. *Tolerate atheism, sir? There is nothing out of hell that I would not tolerate as soon!* The atheist may live, as I have said ; but, God helping us, the taint of his destructive creed shall not defile any of the civil institutions of all this fair land !

Let us repeat, atheism and Christianity are contradictory terms. They are incompatible systems. *They cannot dwell together on the same continent!* '*

Worse than Russia again! Russia will suffer dissenters to dwell on the same continent with her, though it be in the most remote part of Siberia. But these men to whom Senator Blair's religious amendment is so satisfactory, propose to outdo even Russia, and not suffer dissenters to dwell on the same continent with them. In view of these statements of men now living, and actively working for this proposed amendment, is it necessary for us to say that Senator Blair's religious amendment to the Constitution is directly in the line of a religious despotism more merciless than that of Russia, and paralleled only by that of the papacy in the supremacy of its power?

But as though this were not enough, and as though their tolerant intentions were not sincere enough, they propose in addition to all this to join hands with the Catholic Church and enlist her efforts in their work. The *Christian Statesman* of Dec. 11, 1884, said:—

"Whenever they [the Roman Catholics] are willing to co-operate in resisting the progress of political atheism, we will gladly join hands with them."

What does Pope Leo XIII. command all Catholics to do?—This:—

"All Catholics should do all in their power to cause the constitutions of States, and legislation, to be modeled on the principles of the true church."

The National Reformers are doing precisely what the pope has commanded all Catholics to do, and why should n't

* Let not the reader think that because this was spoken fifteen years ago, it is now out of date; for that Association to-day advertises and sells this speech as representative National Reform literature, and the pamphlet in which it is contained can be had by sending twenty-five cents to the *Christian Statesman*, 1520 Chestnut street, Philadelphia, Pa.

they gladly join hands with them? And we may rest assured that Rome will accept the National Reform proffer just as soon as the influence of that Association becomes of sufficient weight to be profitable to her. Senator Blair's proposed amendment is a direct play into the hands of the papacy.

Thus it is clearly demonstrated that Senator Blair's proposed Constitutional amendment, if adopted, will only open the way to the establishment of a religious despotism in this dear land, and that this is the very use those who are most in favor of it intend to make of it. And to favor that amendment is to favor a religious despotism.

But the question may be asked, whether we mean soberly to say that an association that sets forth such abominable propositions can have any influence at all in this enlightened age, or can be counted worthy of recognition, or of the fellowship of respectable people? Well, let us see.

Senator Blair is a respectable personage, and in the letter before mentioned he said to the secretary of that Association:—

"I earnestly trust that your movement may become strong, general, in fact, all-pervading; for the time has fully come when action is imperative and further delay is most dangerous."

But whether any delay could possibly be more dangerous than would be the success of this movement, we leave the reader to decide.

Joseph Cook, the Boston Monday lecturer, is a vice-president of that Association. President Seelye, of Amherst College, is also one of the vice-presidents. Bishop Huntington, of New York, is another. The president of the W. C. T. U. is another; and so is Mrs. J. C. Bateham, of the National Union, and Mrs. Woodbridge, of the same organization. Miss Mary A. West, editor of the *Union Signal*; Mrs. Hoffman, president of the Missouri Union;

Mrs. Lathrap, president of the Michigan Union ; Mrs. Sibley, of the Georgia Union ; Mrs. J. Ellen Foster, of the Iowa Union, — all these are upon the printed list of vice-presidents of that Association for the present year, and all these are eminently respectable people. They are people of influence. In a letter dated Cliff Seat, Ticonderoga, N. Y., Aug. 6, 1887, Joseph Cook hopes to aid the movement "by voice and pen."

In the published reports of the National Reform Association for the years 1886-87, appears the following suggestion, made in 1885, on the relationship between the National W. C. T. U. and the National Reform Association : —

"Miss Francis E. Willard, president of the W. C. T. U., suggested the creation of a special department of its already manifold work, for the promotion of Sabbath observance, *co-operating with the National Reform Association*. The suggestion was adopted at the national convention in St. Louis, and the department was placed in the charge of Mrs. J. C. Bateham, of Ohio, as national superintendent. Mrs. Bateham has since, with her own cordial assent, been made one of the vice-presidents of the National Reform Association."

Again : —

"It was your secretary's privilege this year again to attend the national convention. A place was kindly given for an address in behalf of the National Reform Association, and thanks were returned by a vote of the convention. A resolution was adopted expressing gratitude to the National Association, for the advocacy of a suitable acknowledgment of the Lord Jesus Christ in the fundamental law of this professedly Christian nation."

And again : —

"In the series of monthly readings for the use of local unions as a responsive exercise, prepared or edited by Miss Willard, the reading for last July [1886] was on 'God in Government ;' that for August was 'Sabbath Observance'

(prepared by Mrs. Bateham), and that for September, 'Our National Sins.' Touching the first and last named readings, your secretary had correspondence with their editor before they appeared. A letter has been prepared to W. C. T. U. workers and speakers, asking them in their public addresses to refer to and plead for the Christian principles of civil government. The president of the National Union allows us to say that this letter is sent with her sanction, and by her desire."

From the *Christian Statesman* of Nov. 15, 1888, we copy the following from a report of labor by Secretary M. A. Gault:—

"The four weeks I spent recently in the eighth Wisconsin district, lecturing under the auspices of the W. C. T. U., were among the most pleasant weeks since I went into the lecture field. The weather was unusually fine, and there were but very few meetings in which everything was not in apple-pie order. Ladies wearing the significant white ribbon met me at the train, and took me often to the most elegant home in the town. . . . The W. C. T. U. affords the best facilities for openings for such workers, more than any other organization. It is in sympathy with the movement to enthroned Christ in our Government. The eighth district W. C. T. U., at Augusta, Wis., Oct. 2, 3, and 4, passed this resolution:—

"*Whereas*, God would have all men honor the Son, even as they honor the Father; and,—

"*Whereas*, The civil law which Christ gave from Sinai is the only perfect law, and the only law that will secure the rights of all classes; therefore,—

"*Resolved*, That civil government should recognize Christ as the moral Governor, and his law as the standard of legislation."

"It is significant of how the heart of this great organization is beating, when such a resolution was passed without a dissenting voice by a district convention representing fifteen counties."

What more is necessary to show that the National Reform Association has secured the closest possible alliance

with the W. C. T. U.? The national convention of the W. C. T. U. in 1888, by resolution indorsed the proposed Blair amendment as deserving their "earnest and united support."

But more than this, the purpose of the two associations, as officially declared, is the same. The National Reform Association is set for the turning of this Government into a theocracy, and the W. C. T. U. monthly reading for September, 1886, said the same thing, thus:—

"A true theocracy is yet to come, and the enthronement of Christ in law and law-makers; hence I pray devoutly, as a Christian patriot, for the ballot in the hands of women, and rejoice that the National Woman's Christian Temperance Union has so long championed this cause."

Again, the National Reform Association proposes to turn this Government into a kingdom of Christ, and the W. C. T. U., in national convention, 1887, said:—

"The Woman's Christian Temperance Union, local, State, national, and world-wide, has one vital, organic thought, one all-absorbing purpose, one undying enthusiasm, and that is that Christ shall be *this world's king*;—yea, verily, **THIS WORLD'S KING** in its realm of cause and effect,—king of its courts, its camps, its commerce,—king of its colleges and cloisters,—king of its customs and constitutions. . . . The kingdom of Christ must enter the realm of law through the gate-way of politics."

In conformity with this idea, the National Reformers have bestowed upon the Saviour the title of "The Divine Politician." Christ himself said, "My kingdom is not of this world." These two organizations declare that Christ *shall be* this world's king. There is not the slightest danger of mistake, therefore, in saying that the whole National Reform scheme, including Senator Blair's proposed amendment to the Constitution and the theocratical workings of the W. C. T. U., is *anti-Christian*.

We believe that not one tenth of the great body of the W. C. T. U. have any idea of what this alliance with the National Reform Association amounts to. There are none who have more respect or more good wishes for the W. C. T. U., in the line of its legitimate work, than have we. We are heartily in favor of union, of temperance union, of Christian temperance union, and of woman's Christian temperance union; but we are *not* in favor of any kind of political Christian temperance union, nor of theocratical temperance union. Would that the W. C. T. U. would stick to their text, and work for Christian temperance by Christian means! The Iowa Union has done itself the credit to separate from the political workings of the National Union. It ought to go a step farther, and separate from the theocratical workings of the National Union, also; and all the rest of that body would do well to protest against both the political and the theocratical workings of its present leadership, and especially against the Union's any longer being made a tool of the National Reform Association. By means of the W. C. T. U., that Association is having a thousand times as much influence as it could have if left to itself to make its own way.

The National W. C. T. U. of 1888, resolved that,—

“Christ and his gospel, as universal king and code, should be sovereign in our Government and political affairs.”

Well, let us try it. Suppose the gospel were adopted as the code of this Government. It is the duty of every court to act in accordance with its code. There is a statute in that code which says,—

“If thy brother trespass against thee, rebuke him; and if he repent, forgive him. And if he trespass against thee seven times in a day, and seven times in a day turn again to thee, saying, I repent, thou shalt forgive him.”

Remember, they have resolved that this shall be the code in our Government. Suppose, then, a man steals a horse. He is arrested, tried, and found guilty. He says, "I repent." "Thou shalt forgive him," says the code, and the Government must conform to the code. He is released, and repeats the act; is again arrested and found guilty. He says, "I repent." "Thou shalt forgive him." And if he repeats the offense seven times in a day, and seven times in a day turns to the court, saying, "I repent," the Government must forgive him, for so says that which the Woman's Christian Temperance Union has resolved should be the Governmental code.

It will be seen in an instant that any such system would be destructive of civil government. This is not saying anything against the Bible, nor against its principles. It is only illustrating the absurd perversion of its principles by these people who want to establish a system of religious legislation here. God's government is moral, and he has made provision for maintaining his government with the forgiveness of transgression. But he has made no such provision for civil government, and no such provision can be made. No such provision can be made, and civil government be maintained. The Bible reveals God's method of saving those who sin against his moral government; civil government is man's method of preserving order, and has nothing to do with sin, nor the salvation of sinners. Civil government arrests a man and finds him guilty. If before the penalty is executed, he repents, God forgives him; but the government executes the penalty, and it ought to.

Nor is this the only ally of the National Reform Association. The Third-party Prohibition party is another confederate in this attack upon the Constitution. Geo. W. Baine is a vice-president of that Association. And opposition to church and State was hissed and yelled down in the State Prohibition convention held in San Francisco

in 1888; and that same convention adopted a platform recognizing the Lord as supreme Ruler, "to whose laws all human laws should conform."

Sam Small was secretary of the national Prohibition convention held at Indianapolis in 1888, and, as reported in a revival sermon preached in Kansas City, January, 1888, what he wants to see is this:—

"I want to see the day come when the church shall be the arbiter of all legislation, State, national, and municipal; when the great churches of the country can come together harmoniously, and issue their edict, and the legislative powers will respect it, and enact it into laws."

What more was the papacy ever than that? What more did it ever claim to be? What more could it have been?

Sam Jones is another ardent Third-party Prohibitionist. In the latter part of July, 1888, he preached in Windsor, Canada, to an audience composed mostly of Americans, who went over there to hear him. Here is one of his devout, elegantly refined, and intensely instructive passages:—

"Now I tell you, I think we are running the last political combat on the lines we have been running them on. It is between the Republicans and the Democrats, this contest, and it is the last the Republicans will make in America. The Democrats are going in overwhelmingly. Four years from now the Prohibition element will break the solid South. The issue then will be, God or no God, drunkenness or sobriety, Sabbath or no Sabbath, heaven or hell. That will be the issue. Then we will wipe up the ground with the Democratic party, and let God rule America from that time on."

And this the *Christian Statesman* inserts under the heading, "The National Reform Movement." It is very appropriately placed. It is a worthy addition to the literature of the National Reform movement.

On the way home from the Indianapolis convention, a National Reformer, and a Third-party Prohibitionist, who is a prominent speaker, were riding together in the railway car. A personal acquaintance of the writer sat in the next seat to them. The National Reformer said that the Prohibition party did not make enough of National Reform principles; the Prohibitionist replied:—

“We are just as much in favor of those principles as you are; but the time has not yet come to make them so prominent as you wish. But you help put us into power, and we will give you all you want.”

Thus the Third-party Prohibition party is but another ally of the National Reform Association.

When it is seen that this legislation is the first step toward the establishment of a religious despotism modeled upon the principles of the papacy, and when this legislation is supported by such men as Joseph Cook, President Seelye, Bishop Huntington, and the others named; by the Woman's Christian Temperance Union, and the Third-party Prohibition party,—is it not time that somebody should say something in behalf of our Constitution as it is, and of the rights of men under it?

In bringing this chapter to a close, we may fittingly quote the following remarks from Rev. Samuel T. Spear, D. D., LL. D.:—

“Those who drew the plan of our national Government, built the system upon the principle that religion and civil government were to be kept entirely distinct; and, for the most part, all the State governments are constructed upon the same theory. The general character of both is that they neither affirm nor deny any doctrine in respect to God, and that they command no duty as a religious duty. They deal with the temporal rights and obligations of citizenship, without any reference to the question whether the citizen is a religionist or not. His religious faith is no part of his citizenship, and no criterion of his rights. It

confers upon him no immunities, and imposes no disabilities. It is a matter between himself and his God, and with it the civil authority does not concern itself. He is not forbidden to be an atheist, and not commanded to be a Christian. He forfeits no rights by being the one, and gains none by being the other ; and as between these two extremes of opinion, the State does not undertake to decide which is the true and which is the false opinion. Such is the great American principle in respect to the sphere of civil government. This principle, being the exact antipode of State theology, admits of no reconciliation with it."

No grander mark of political wisdom ever appeared upon this earth than was displayed when the fathers of this Republic declared that "no religious test shall ever be required as a qualification to any office or public trust under this Government ;" and that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." But the lessons which these mighty men learned are now well-nigh forgotten. Let these noble lessons be newly learned, and held forth before all the nations ; so shall Liberty indeed enlighten the world.

CHAPTER V.

RELIGIOUS LEGISLATION.

THE proposed religious amendment to the national Constitution, introduced into the United States Senate by Senator Blair, is not the only attempt that is being made to commit Congress to a course of religious legislation. This proposed amendment was first introduced May 25, 1888; but on May 21, 1888, the same Senator had introduced a bill to "promote" the observance of "the Lord's day" "as a day of religious worship." This bill, with modifications, was also re-introduced by Senator Blair, Dec. 9, 1889. The bill, as it now stands, is as follows:—

"51ST CONGRESS, }
1ST SESSION. } S. 946.

"A bill to secure to the people the privileges of rest and of religious worship, free from the disturbance by others, on the first day of the week.

"*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That no person or corporation, or agent, servant, or employee of any person or corporation, or in the service of the United States in time of peace, except in the necessary enforcement of the laws, shall perform, or authorize to be performed, any secular work, labor, or business, to the disturbance of others, works of necessity and mercy and humanity excepted; nor shall any person engage in any play, game, or amusement or recreation to the disturbance of others on the first day of the week, commonly known as Sunday, or during any part thereof, in any territory, district, vessel, or place subject to the exclusive jurisdiction of the United States; nor shall it be lawful for any person or corporation to receive pay for labor or service performed or rendered in violation of this section.

"SEC. 2. That no mails or mail matter shall hereafter be transported in time of peace over any land postal route, nor shall any mail matter be collected, assorted, or handled, or delivered during any part of the first day of the week; provided, that whenever any letter shall relate to a work of necessity or mercy, or shall concern the health, life, or decease of any person, and the fact shall be plainly stated upon the face of the envelope containing the same, the Postmaster-General shall provide for the transportation of such letter or letters in

packages separate from other mail matter, and shall make regulations for the delivery thereof, the same having been received at its place of destination before the said first day of the week, during such limited portion of the day as shall best suit the public convenience and least interfere with the due observance of the day as one of worship and rest; and provided, further, that when there shall have been an interruption in the due and regular transmission of the mails, it shall be lawful to so far examine the same when delivered as to ascertain if there be such matter therein for lawful delivery on the first day of the week.

"SEC. 3. That the prosecution of commerce between the States and with the Indian tribes, the same not being work of necessity, mercy, or humanity, by the transportation of persons or property by land or water in such a way as to interfere with or disturb the people in the enjoyment of the first day of the week, or any portion thereof, as a day of rest from labor, the same not being work of necessity, mercy, or humanity, or its observance as a day of religious worship, is hereby prohibited, and any person or corporation, or the agent, servant, or employee of any person or corporation who shall willfully violate this section, shall be punished by a fine of not less than ten nor more than 1,000 dollars, and no service performed in the prosecution of such prohibited commerce shall be lawful, nor shall any compensation be recoverable or paid for the same.

"SEC. 4. That all military and naval drills, musters, and parades, not in the time of active service or immediate preparation thereof, of soldiers, sailors, marines, or cadets of the United States, on the first day of the week, except assemblies for the due and orderly observance of religious worship, are hereby prohibited, nor shall any unnecessary labor be performed or permitted in the military or naval service of the United States on the first day of the week.

"SEC. 5. That it shall be unlawful to pay or receive payment or wages in any manner for service rendered, or for labor performed, or for the transportation of persons or of property in violation of the provisions of this act, nor shall any action lie for the recovery thereof, and when so paid, whether in advance or otherwise, the same may be recovered back by whoever shall first sue for the same.

"SEC. 6. That labor or service performed and rendered on the first day of the week in consequence of accident, disaster, or unavoidable delays in making the regular connection upon postal routes and routes of travel and transportation, the preservation of perishable and exposed property, and the regular and necessary transportation and delivery of articles of food in condition for healthy use, and such transportation for short distances from one State, district, or Territory into another State, district, or Territory, as by local laws shall be declared to be necessary for the public good, shall not be deemed violations of this act, nor shall the provisions of this act be construed to prohibit or to sanction labor on Sunday by individuals who conscientiously believe in and observe any other day than Sunday as the Sabbath or a day of religious worship, provided such labor be not done to the disturbance of others."

The first thing to be noticed about this bill is the title and the important modification of it as compared with the title of the original bill introduced in the Fiftieth Congress, and as compared with the title proposed by the American Sabbath Union a year ago last December. The title in the original bill read :—

“A bill to secure to the people the enjoyment of the first day of the week, commonly known as the Lord's day, as a day of rest, and to promote its observance as a day of religious worship.”

This title threw the bill so open to criticism on account of its religious aspect that the American Sabbath Union asked that it should be made to read as follows :—

“A bill to secure to the people the enjoyment of the Lord's day, commonly known as Sunday, as a day of rest, and to protect its observance as a day of religious worship.”*

This, however, was pronounced by Senator Blair as stronger and more interfering than the other.

By the experience of the past summer, the advocates of the Sunday law have themselves learned that this has a stronger religious cast than can well be defended in legislation, and therefore, the title of the bill as now introduced, is stripped of its religious cast, and is made to read simply thus :—

“A bill to secure to the people the privileges of rest and of religious worship, free from disturbance by others, on the first day of the week.”

If this title described the real object of the bill, it would be a very innocent measure, provided it were true that the people had not already secured to them the privileges of rest and religious worship free from disturbance by others, not only on the first day of the week, but at all other times. It is a fact, however, that there are no people in all this land who have not the privileges of rest and religious worship free from disturb-

* See p. 162.

ance by anybody, on the first day of the week, and all other days and nights of the week. The workers for Sunday law know this full well. The field secretary of the American Sabbath Union made a tour of all the States and Territories, the past summer, in the interests of Sunday laws. In Portland, Or., and in San Francisco, he complained especially of the loose way in which Sunday was observed. The writer of this pamphlet was present at the field secretary's Sunday meeting in Portland, and twice in San Francisco; and Mr. Crafts knows that the worship of the congregations to which he preached in those cities, and to whom he complained of the sorry manner of Sunday observance in those cities, were not disturbed in the slightest degree, nor was there any disposition on the part of anybody to disturb them. This he knows as well as we know it, and this they all know.

This being the title of the bill, let us inquire how the object of the bill, as declared in the title, is proposed to be accomplished.

Section 1 declares that no person within the jurisdiction of the United States shall perform or authorize to be performed, any *secular* work, labor, or business to the disturbance of others upon the first day of the week. Now secular means, "pertaining to this present world, or to things not spiritual or holy; relating to things not immediately or primarily respecting the soul but the body; worldly." Therefore this bill proposes to prohibit all persons within the jurisdiction of the United States from performing or authorizing to be performed on Sunday any work, labor, or business pertaining to this present world or to things not spiritual or holy. It proposes to prohibit them from performing any work, labor, or business relating immediately or primarily to the body (works of necessity, mercy, and humanity excepted); to prohibit them from doing anything worldly,

that is, pertaining to this world or to this life. Consequently, the only kind of works that can properly be done on Sunday under that bill are works that pertain to another world, works that pertain to things spiritual or holy, works respecting the soul, and the life to come.

Now we should like for some of these Sunday-law folks to tell us how the Congress of the United States is going to find out, so as authoritatively to state, what work, labor, or business it is that properly pertains to another world, on Sunday or at any other time. More than this, we should like for them to tell us how Congress is to find out whether there is any other world than this, and especially how it is to find this out and make it to be so clearly discerned that the recognition of it can be enforced by law upon all the people? We should like, also, for some of these to tell how Congress is to discover what work it is that properly pertains to the people's souls on Sunday; or indeed, whether the people have any souls? How is Congress to know whether there is a life to come? And if Congress shall discover all this to its own satisfaction, then will Congress insure to all the people a happy issue in that life to come, upon condition that they will observe the Sunday laws?

These are not captious questions, they are entirely pertinent. For when it is proposed that this nation by legislative acts shall commit itself to the guardianship of the affairs of the world to come, of men's souls, and of another life; and when the people are asked to consent to it, it is strictly proper for the people to inquire, How shall the State make that thing a success?

The truth is, that the State can never have anything to do with the world to come or with the question as to whether there is one to come at all. The State can never have anything to do with men's souls or with the question as to whether men have any souls. The State can never

have anything to do with the life to come or with the question as to whether there is any life to come. No State will ever reach the world to come nor will any State ever, in the least degree, be partaker of the life that is to come. The State is of this world wholly, it has to do only with the affairs of this world, and with men as they are in this world. The State has to do only with men's bodies, and to see that the lives which men lead are civil. By this it is clearly seen that the Blair Sunday bill at the very first step proposes to lead the Government of the United States into a field where it is impossible for it to exercise any proper jurisdiction.

Nor do we raise these questions because we doubt that there is another world, or that there is a life to come. We are fully persuaded that there are both another world and a life to come. But the discerning of this is a matter of faith, and that on the part of each individual for himself alone. Nobody on this earth can discern or decide this for anybody else. We thoroughly believe that there is both another world and a life to come; and anybody in this world has an equal right not to believe it if he chooses so to do. We have the right to believe this without the sanction of the Government; and any other man has a right not to believe it, and that without any interference by the Government. We deny the right of any of the Senators or Representatives in Congress to decide any of these matters for anybody but himself.

Further: this section declares that no person shall do any secular work, or "engage in any play, game, or amusement, or recreation, to the disturbance of others, on the first day of the week, commonly known as Sunday, or during any part thereof." This leaves it entirely with the other man to say whether that which you do disturbs him; and that is only to make every man's action on Sunday subject to the whim or caprice of his neighbor. And

everybody knows that it requires a very slight thing to make a man an offender in the eyes of one who has a spite or a prejudice against him. At the Illinois State Sunday-law convention for 1888 (Nov. 20, 21), Dr. R. O. Post, of Springfield, made a speech on the subject of "Sunday Recreation," in which he laid down the following rule on the subject:—

"There is no kind of recreation that is proper or profitable on Sunday, outside of the home or the sanctuary."

Only let such a law as is embodied in this bill of Senator Blair's, be of force where R. O. Post, D. D., is, and any kind of recreation outside of the home or the sanctuary would be sure to disturb him, and the one engaged in the recreation could be arrested and prosecuted. But, it may be argued, that no judge or jury would uphold any such prosecution. That is not at all certain, as we shall yet see; but whether or not it is so, it is certain that if your neighbor should say that what you did disturbed him, under such a law as that he could have you arrested, and put to the inconvenience and expense of defending yourself before the court. In 1887 the city of San Francisco, Cal., had an ordinance on another subject that embodied the very principle of this clause of the Blair Sunday bill. It read as follows:—

"No person shall in any place indulge in conduct having a tendency to annoy persons passing or being upon the public highway, or upon adjacent premises."

It is easy to see that the principle of this ordinance is identical with that of the clause in the first section of the Blair bill, which forbids anything "to the disturbance of others."

While that San Francisco ordinance was in force, a man by the name of Ferdinand Pape was distributing some circulars on the street, which "annoyed" some-

body. He was arrested. He applied to the Superior Court for a writ of *habeas corpus*, claiming that the offense charged against him did not constitute a crime, and that the ordinance making such action an offense was invalid and void, because it was unreasonable and uncertain. The report of the case says :—

“The writ was made returnable before Judge Sullivan, and argued by Henry Hutton in behalf of the imprisoned offender. Disposing of the question, the Judge gave quite a lengthy written opinion, in which he passed a somewhat severe criticism upon the absurdity of the contested ordinance, and discharged Pape from custody. Said the Judge :—

“If the order be law, enforceable by fine and imprisonment, it is a crime to indulge in any conduct, however innocent and harmless in itself, and however unconsciously done, which has a tendency to annoy other persons. The rival tradesman who passes one's store with an observant eye as to the volume of business, is guilty of a crime, because the very thought of rivalry and reduction of business has a tendency to annoy. The passing of the most lenient creditor has a tendency to annoy, because it is a reminder of obligations unfulfilled. The passing of a well-clad, industrious citizen, bearing about him the evidences of thrift, has a tendency to annoy the vagabond, whose laziness reduces him to a condition of poverty and discontent. The importunities of the newsboy who endeavors with such persistent energy to dispose of his stock, has a tendency to annoy the prominent citizen who has already read the papers, or who expects to find them at his door as he reaches home. He who has been foiled in an attempted wrong upon the person or property of another, finds a tendency to annoy in the very passing presence of the person whose honesty or ingenuity has circumvented him. And so instances might be multiplied indefinitely in which the most harmless and inoffensive conduct has a tendency to annoy others. If the language of the ordinance defines a criminal offense, it sets a very severe penalty of liberty and property upon conduct lacking in the essential element of criminality.

“But it may be said that courts and juries will not use the instrumentality of this language to set the seal of condemnation on unoffending citizens, and to unjustly deprive them of their liberty and brand them as criminals. The law countenances no such dangerous doctrine, countenances no principle so subversive of liberty, as that the life or liberty of a subject should be made to depend upon the whim or caprice of judge or jury, by exercising a discretion in determining that certain conduct does or does not come within the inhibition of a criminal action. The law should be engraved so plainly and distinctly on the legislative tables that it can be discerned alike by all subjects of the commonwealth, whether judge upon the bench, juror in the box, or prisoner at the bar. Any condition of the law which allows the test of criminality to depend on the whim or caprice of judge or juror, savors of tyranny. The language employed is broad enough to cover conduct which is clearly within the Constitutional rights of the citizen. It designates no border-line which divides the criminal from the non-criminal conduct. Its terms are too vague and uncertain to lay down a rule of conduct. In my judgment, the portion of the ordinance here involved is uncertain and unreasonable.”

This decision applies with full force to Senator Blair's proposed national Sunday law. Under that law, all that would be necessary to subject any person to a criminal prosecution, would be for him to engage in any sort of play, game, amusement, or recreation on Sunday ; because the National Reformers are as much in favor of this Sunday law as they are in favor of the Blair religious amendment to the Constitution, and there are many of those rigid National Reformers who would be very much “disturbed” by any amusement or recreation indulged in on Sunday, however innocent it might be in itself. And it is left entirely to the whim or the caprice of the “disturbed” one, or of the judge or jury, to say whether the action really has or has not disturbed him.

The California decision is, that such a statute “sets a

very severe penalty of liberty and property upon conduct lacking in the essential element of criminality." California courts "countenance no such dangerous doctrine, countenance no principle so subversive of liberty," or which so "savors of tyranny," as that which is embodied in the Blair Sunday bill.

Upon Section 2, under its first proviso, we would simply ask: How many letters would be stopped on Sunday after the thing got into good working order?

Under this same proviso there is another clause that is of more serious moment, especially to those who observe Sunday. That is the clause which refers to "the due observance of the day as one of worship and rest." Are the people who believe in keeping Sunday ready to have the Government regulate their observance of that day? Are they ready to have the State assume the prerogative of deciding what is the due observance of that day as a day of worship and rest? This is what they do when they consent to the enactment of such a law as the Blair Sunday bill is. Every man who believes in keeping Sunday, when he consents to this bill, resigns his religious liberty. He resigns his right to worship according to the dictates of his own conscience, and yields to the Government the right to dictate how he shall observe that day as a day of worship. The fact is, that in this thing the people who desire to keep Sunday and who believe that it should be religiously observed, have more at stake than any other people, and it is a mystery that they cannot see this. It is a mystery that the leaders in the movement cannot see that they are deliberately robbing themselves of the dearest rights known to man. The mystery is solved, however, by the fact that the lust for power has blinded them to the consideration, not only of the rights of other people, but of their own rights. It is in behalf of the rights of those who believe in keeping Sunday and of worshipping

according to the dictates of their own consciences, no less than in behalf of the rights of all other people, that we carry on this uncompromising opposition to all manner of governmental sanction or interference in the matter of Sabbath observance.

State regulation of the religious observance or worship of the day, is the inevitable outcome of the legislation that is proposed; yet it is not intended by the managers of this movement that the State shall do this of itself. They intend that *the church* shall assume the supremacy and dictate the action and wield the power of the State. Thus a union of church and State, the rule of the despotic tyranny of a hierarchy, will be the inevitable outcome of this legislation. It cannot be escaped when once the legislation is begun.

Upon Section 3 we simply remark that, by a penalty of a thousand dollars upon the exercise of honest occupations, and such a premium upon idleness, the Government ought to be able soon to create enough evil to ruin itself, which it surely will if the thing should be carried into all the States.

As to Section 4, when everything shall have been forbidden the soldiers, sailors, marines, and cadets, as is here proposed, except assemblies for the due and orderly observance of religious worship, suppose that they do not want to assemble for the observance of religious worship, will they then be assembled for that purpose? And how are they to know what is the "due" observance of religious worship in the meaning of the law, except they shall be instructed? Having gone so far in religio-political chicanery after the manner of Constantine, the Government might take the next and requisite step also, according to the example set by him, and teach them the "due" observance of religious worship, as he did, by having

them assemble and repeat at a given signal a prayer also enacted by Congress and adapted to the governmental authority of the United States.

Section 5 is identical, word for word, with the one in the original bill. Whenever anybody receives any pay at any time for work done on Sunday, the first man that will sue for the money, shall have it. It makes no difference who he is or where he comes from, if he finds out that anybody has received money for work done on Sunday, all he has to do is to enter suit, and the law says he shall have it.

This section aptly befits the cause to which this bill is committed. The only effect the bill as a whole can have upon those who are not really religious is to compel them to be idle, and this section simply proposes to put a further premium upon idleness by compelling the man who chooses to work rather than to be idle, to pay the idler for the exercise of his own honest industry. The lazy loafer who will never do anything if he can help it, can spend his time watching the industrious citizen, and if he can detect him in committing the heinous crime of performing any honest work on Sunday, for which he shall receive any pay, the loafer can recover from the industrious man a sufficient amount to support him in his idleness several days. This is a fine thing indeed, an excellent provision of law, for the loafers.

Government is supposed to be founded in justice. Courts are supposed to be courts of justice. But we should like very much indeed for somebody to show upon what principle of justice this section is founded, and by what principle of justice any court can be guided in enforcing the provisions of it.

Section 6 is identical with the same section in the original bill down to the directions for the construction

of the act. In the original bill the provisions of the act were to be so construed as "to secure to all the people the religious observance of the Sabbath day." But the bill as now presented is to be so construed as neither to prohibit nor to sanction labor on Sunday by those who conscientiously believe in and observe any other day than Sunday as the Sabbath or a day of religious worship. Thus the Government proposes to allow labor on Sunday by those who observe another day, yet it carefully refrains from adding to the permission any such sanction as would imply that it is right for such people to work on Sunday.

Yet nobody can be partaker of this permission, unless he *conscientiously* believes in, and observes another day than Sunday *as the Sabbath* or a day of *religious worship*. The conscientious belief in and observance of a day, therefore, as a day of religious worship, is required by the Government in those who do not want to keep Sunday; and as the other sections of the bill require that Sunday shall be duly observed as a day of religious worship; that nothing shall be done that day except that which pertains to another world; to that which is sacred and holy; to the souls of men; and to the life to come; it is manifest that the object of the Blair Sunday-rest bill is the enforcement of THE RELIGIOUS OBSERVANCE OF A DAY.

Consideration of the whole bill makes it plain that the modification of the title, to which we called attention at the beginning of this article, is utterly disingenuous. The object of the bill is *not* to secure to the people the privilege of rest and worship upon the first day of the week. It is to *compel* them to rest and to religiously worship on the first day of the week, or else on some other day if they do not choose to do it on Sunday. The modification in the title is simply to disarm suspicion; and the

exemption of those who conscientiously observe another day as a day of religious worship, is put into the bill for no other purpose than to checkmate the opposition of the seventh-day observers. This would be manifest from the bill itself, even without anything further, but they have not left it to be gathered from the bill only. Mrs. M. E. Catlin, Superintendent of Sabbath Observance Department of the Woman's Christian Temperance Union for the District of Columbia, has distinctly declared it in these words: "I think that we have taken the wind out of their sails by giving them an exemption clause." During the past summer Dr. Crafts has denounced the Seventh-day Adventists as the chiefest opponents of the bill, and the Sunday-law advocates propose now to check this opposition by this provision in the new bill.

Nor is this the only effort that is made to disarm suspicion and check opposition. In some places the organizations that are formed auxiliary to the American Sabbath Union, take the name of "Civil Sunday" associations. And in conventions where they cannot carry resolutions indorsing the Sabbath as a religious institution, they will modify them so as to carry them in favor of Sunday as a civil institution. By such modifications and compromises, they hope at last to succeed. But whatever turn they may take, now or in the future, will not relieve them from the just charge of desiring the enactment of a national law for the enforcement of the religious observance of a day; because their real intention has been clearly revealed in the first steps taken; and whatever modifications they may afterward adopt, will not in the least change the original intention, but only the appearance, and that simply for policy's sake.

It is the religious observance of the day, that its promoters, from one end of the land to the other, have in

view. In the Washington Sunday convention, Dec. 12, 1888, Dr. Crafts said : —

“Taking religion out of the day, takes the rest out.”

In the “Boston Monday Lectures,” 1887, Joseph Cook, lecturing on the subject of Sunday laws, said : —

“The experience of centuries shows, however, that you will in vain endeavor to preserve Sunday as a day of rest, unless you preserve it as a day of worship. Unless Sabbath observance be *founded upon religious reasons*, you will not long maintain it at a high standard on the basis of economic and physiological and political considerations only.”

And in the Illinois State Sunday convention held in Elgin, Nov. 8, 1887, Dr. W. W. Everts declared Sunday to be “the test of all religion.”

Being, therefore, as it is, religious legislation, it is clearly unconstitutional. In proof of this, we submit the following considerations : —

All the powers of Congress are delegated powers. It has no other power ; it cannot exercise any other. Article X. of Amendments to the Constitution expressly declares that —

“The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”

In all the powers thus delegated to Congress, there is no hint of any power to legislate upon any religious question, or in regard to the observance of any religious institution or rite. Therefore, Senator Blair’s Sunday bill, being a religious bill, is unconstitutional ; and any legislation with regard to it will be unconstitutional. More than this, Sunday being a religious institution, any legislation by Congress in regard to its observance, will be unconsti-

tutional as long as the United States Constitution shall remain as it now is. Nor is this all. The nation has not been left in doubt as to whether the failure to delegate this power was or was not intentional. The first Amendment to the Constitution, in declaring that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof," shows that the failure to delegate such power was intentional, and makes the intention emphatic by absolutely prohibiting Congress from exercising any power with regard to religion. It is impossible to frame a law on the subject of religion that will not in some way prohibit the free exercise of religion. Therefore the first Amendment to the Constitution absolutely prohibits Congress from ever making any law with regard to any religious subject, or the observance of any religious rite or institution. Senator Blair's bill, being a religious bill, is shown by this second count to be unconstitutional.

By the evidences, logical, legal, and constitutional, which we have presented in this chapter, it is demonstrated that the Blair national Sunday bill is uncertain and unreasonable; that it is subversive of liberty, and savors of tyranny; that it is unconstitutional; and, as it invades men's relationship to God and the world to come, it is *anti-Christian*.

The only safe and consistent position to occupy in relation to Sunday laws is that of uncompromising opposition to every form of Sunday law that may be invented. Such legislation means only mischief, and as the mischievous influence grows, let the opposition be carried on everywhere more vigorously than ever.

CHAPTER VI.

THE SUNDAY-LAW MOVEMENT IN THE FOURTH CENTURY, AND ITS PARALLEL IN THE NINETEENTH.

A TITLE for this chapter equally good with the above would be, The Making of the Papacy and the Perfect Likeness to It. In 2 Thess. 2:1-4, Paul wrote:—

“Now we beseech you, brethren, by the coming of our Lord Jesus Christ, and by our gathering together unto him, that ye be not soon shaken in mind, or be troubled, neither by spirit, nor by word, nor by letter as from us, as that the day of Christ is at hand. Let no man deceive you by any means; for that day shall not come, except there come a falling away first, and that man of sin be revealed, the son of perdition; who opposeth and exalteth himself above all that is called God, or that is worshiped; so that he as God sitteth in the temple of God, showing himself that he is God; for the mystery of iniquity doth already work.”

Speaking to the elders of the church at Ephesus, Paul makes known what is the secret, we might say, the *spring*, of the papacy. Acts 20:28-30. “Of your own selves shall men arise, speaking perverse things, to draw away disciples after them.” He was here speaking to the elders of the churches—the bishops. Whether he meant that there would be among these Ephesian bishops individuals who would do this, or that the bishopric would be perverted from its true office, and would exalt itself to the full development of the papacy, it matters not; for the words themselves express the fact as it was enacted

in the history that followed. The bishopric of Rome finally developed into the papacy, which is the embodiment of the "mystery of iniquity." This work, as he says, began by the bishops' speaking perverse things, to draw away disciples after them. It became quite general about twenty years after the death of John. Says Mosheim : —

"The bishops augmented the number of religious rites in the Christian worship, by way of accommodation to the infirmities and prejudices both of Jews and heathen, in order to facilitate their conversion to Christianity." "For this purpose, they gave the name of *mysteries* to the institutions of the gospel, and decorated particularly the holy sacrament with that solemn title. They used in that sacred institution, as also in that of baptism, several of the terms employed in the heathen mysteries, and proceeded so far at length as to adopt some of the ceremonies of which those renowned mysteries consisted. This imitation began in the Eastern provinces; but after the time of Hadrian [emperor A. D. 117–138], who first introduced the mysteries among the Latins, it was followed by the Christians who dwelt in the western part of the empire. A great part, therefore, of the service of the church in this century, had a certain air of the heathen mysteries, and resembled them considerably in many particulars." — *Church History*, cent. 2, part 2, chap. 4, par. 2, 5.

Another means by which these ambitious bishops secured disciples to themselves in great numbers from among the heathen, was the adoption of the day of the sun as a festival day.

"The oldest, the most wide-spread, and the most enduring of all the forms of idolatry known to man, [is] the worship of the sun." — *T. W. Chambers, in Old Testament Student*, January, 1886.

And says Mosheim : —

"Before the coming of Christ, all the Eastern nations performed divine worship with their faces turned to that

part of the heavens where the sun displays his rising beams. This custom was founded upon a general opinion that God, whose *essence* they looked upon to be *light*, and whom they considered as being circumscribed within certain limits, dwelt in that part of the firmament from which he sends forth the sun, the bright image of his benignity and glory. The Christian converts, indeed, rejected this gross error [of supposing that God dwelt in that part of the firmament]; but they retained the ancient and universal custom of worshipping toward the East, which sprang from it. Nor is this custom abolished even in our times, but still prevails in a great number of Christian churches." *Church History*, cent. 2, part 2, chap. 4, par. 7. Eze. 8 : 16.

This was first adopted in connection with the Sabbath of the Lord ; but after a while the paganized form of godliness crowded out the Sabbath entirely, and those were cursed who would observe it. By the beginning of the fourth century, this apostasy had gained a prominence by which it could make itself felt in the political workings of the Roman empire. The ambitious bishops of the apostasy had at this time invented a theory of government, which they determined to have recognized, which should make the civil power subordinate to the ecclesiastical. Says Neander :—

"There had in fact arisen in the church a false theoretical theory, originating not in the essence of the gospel, but in the confusion of the religious constitutions of the Old and New Testaments, which . . . brought along with it an unchristian opposition of the spiritual to the secular power, and which might easily result in the formation of a sacerdotal State, subordinating the secular to itself in a false and outward way." — *Torrey's Neander*, Boston, 1852, p. 132.

The government of Israel was a true theocracy. That was really a government of God. At the burning bush, God commissioned Moses to lead his people out of Egypt. By signs and wonders and mighty miracles multiplied,

God delivered Israel from Egypt, and led them through the wilderness, and finally into the promised land. There he ruled them by judges "until Samuel the prophet," to whom, when he was a child, God spoke and by whom he made known his will. In the days of Samuel, the people asked that they might have a king. This was allowed, and God chose Saul, and Samuel anointed him king of Israel. Saul failed to do the will of God, and as he rejected the word of the Lord, the Lord rejected him from being king, and sent Samuel to anoint David king of Israel; and David's throne God established forevermore. When Solomon succeeded to the kingdom in the place of David his father, the record is: "Then Solomon sat on the throne of the Lord as king instead of David his father." 1 Chron. 29:23. David's throne was the throne of the Lord, and Solomon sat on the throne of the Lord as king over the earthly kingdom of God. The succession to the throne descended in David's line to Zedekiah, who was made subject to the king of Babylon, and who entered into a solemn covenant before God that he would loyally render allegiance to the king of Babylon. But Zedekiah broke his covenant; and then God said to him:—

"Thou profane, wicked prince of Israel, whose day is come, when iniquity shall have an end, thus saith the Lord God: Remove the diadem, and take off the crown; this shall not be the same; exalt him that is low, and abase him that is high. I will overturn, overturn, overturn it; and it shall be no more, until he come whose right it is; and I will give it him." Eze. 21:25-27; 17:1-21.

The kingdom was then subject to Babylon. When Babylon fell, and Medo-Persia succeeded, it was overturned the first time. When Medo-Persia fell, and was succeeded by Grecia, it was overturned the second time. When the Greek empire gave way to Rome, it was overturned the third time. And then says the word, "It shall

be no more, till he come whose right it is ; and I will give it him." Who is he whose right it is ? — "Thou . . . shalt call his name Jesus. He shall be great, and shall be called the Son of the Highest ; and the Lord God shall give unto him the throne of his father David ; and he shall reign over the house of Jacob forever, and of his kingdom there shall be no end." Luke 1 : 31-33. And while he was here as "that prophet," a man of sorrows and acquainted with grief, the night in which he was betrayed he himself declared, "My kingdom is not of this world." Thus the throne of the Lord has been removed from this world, and will "be no more, until he come whose right it is," and then it will be given him. And *that time* is the end of this world, and the beginning of "the world to come." Therefore while this world stands, a true theocracy can never be in it again. Consequently, from the death of Christ till the end of this world, every theory of an earthly theocracy is a false theory ; every pretension to it is a false pretension ; and wherever any such theory is proposed or advocated, whether in Rome in the fourth century, or anywhere else in any other century, it bears in it all that the papacy is or that it ever pretended to be, — it puts a man in the place of God.

These theocratical bishops made themselves and their power a necessity to Constantine, who, in order to make sure of their support, became a political convert to the form of Christianity, and made it the recognized religion of the empire. And says Neander further : —

"This theocratical theory was already the prevailing one in the time of Constantine ; and . . . the bishops voluntarily made themselves dependent on him by their disputes, and by their determination to make use of the power of the State for the furtherance of their aims." — *Idem*.

In these quotations from Neander the whole history of the papacy is epitomized. All that the history of the

papacy is, is only the working out of this theory. For the first step in the logic of a man-made theocracy, is a pope; the second step is the infallibility of that pope; and the third step is the Inquisition, to make his infallibility effective, as we will prove:—

First, a true theocracy being a government immediately directed by God, a false theocracy is a government directed by a man in the place of God. But a man governing in the place of God is a pope. A man ruling the world in the place of God, is all that the pope has ever claimed to be.

Second, a false theocracy being a professed government of God, he who sits at the head of it, sits there as the representative of God. He represents the divine authority; and when he speaks or acts officially, his speech or act is that of God. But to make a man thus the representative of God, is only to clothe human passions with divine power and authority. And being human, he is bound always to act unlike God; and being clothed with irresponsible power, he will sometimes act like the Devil. Consequently, in order to make all his actions consistent with his profession, he is compelled to cover them all with the divine attributes, and make everything that he does in his official capacity the act of God. This is precisely the logic and the profession of papal infallibility. It is not claimed that all the pope speaks is infallible; it is only what he speaks officially—what he speaks from the throne. Under this theory, he sits upon that throne as the head of the government of God in this world. He sits there as the representative of God. And when he speaks officially, when he speaks from the throne, he speaks as the representative of God. Therefore, sitting in the place of God, ruling from that place as the official representative of God, that which he speaks from the throne is the word of God, and must be infallible. This is the inevitable logic of the false theocratical theory. And if it

is denied that the theory is false, there is logically no escape from accepting the papal system. The claims of the papacy are not in the least extravagant, if the theory be correct.

Third, God is the moral governor. His government is a moral one, whose code is the moral law. His government and his law have to do with the thoughts, the intents, and the secrets of men's hearts. This must be ever the government of God, and nothing short of it can be the government of God. The pope then being the head of what pretends to be a government of God, and ruling there in the place of God, his government must rule in the realm of morals, and must take cognizance of the counsels of the heart. But being a man, how could he discover what were the thoughts of men's hearts, whether they were good or evil, that he might pronounce judgment upon them?—By long and careful experiment, and by intense ingenuity, means were discovered by which the most secret thoughts of men's hearts might be wrung from them, and that was by the Inquisition.

But the Inquisition was only the inevitable logic of the theocratical theory upon which the papacy was founded. The history of the papacy is only the logic of the theocratical theory upon which the papacy was founded: First, a pope; then the infallibility of that pope; then the Inquisition, to make his infallible authority effective. And that is the logic of any theocratical theory of earthly government since Jesus Christ died.

This being their theory, and their determination being "to make use of the power of the State for the furtherance of their aims," the question arises, What means did they employ to secure control of this power? *Answer.*—*The means of Sunday laws.* They secured from Constantine the following Sunday law:—

"THE EMPEROR CONSTANTINE TO HELPIDIUS.

"On the venerable day of the sun, let the magistrates and people living in towns, rest, and let all work-shops be closed. Nevertheless, in the country, those engaged in the cultivation of land may freely and lawfully work, because it often happens that another day is not so well fitted for sowing grain and planting vines; lest by neglect of the best time, the bounty provided by Heaven should be lost. Given the seventh day of March, Crispus and Constantine being consuls, both for the second time." [A. D. 321.]

This was not the very first Sunday law that they secured; the first one has not survived. But although the first one has not survived, the reason for it has. Sozomen says that it was "that the day might be devoted with less interruption to the purposes of devotion." And this statement of Sozomen's is indorsed by Neander ("Church History," vol. 2, p. 298). This reason given by Sozomen reveals the secret of the legislation; it shows that it was in behalf of the church, and to please the church.

By reading the above edict, it is seen that they started out quite moderately. They did not stop all work; only judges, towns-people, and mechanics were required to rest, while people in the country might freely and lawfully work. The emperor paraded his soldiers on Sunday, and required them to repeat in concert the following prayer:—

"Thee alone we acknowledge as the true God; thee we acknowledge as Ruler; thee we invoke for help; from thee have we received the victory; through thee have we conquered our enemies; to thee are we indebted for our present blessings; from thee also we hope for future favors; to thee we will direct our prayer. We beseech thee, that thou wouldst preserve our Emperor Constantine and his pious sons in health and prosperity through the longest life."

This Sunday law of A. D. 321 continued until 386, when —

“Those older changes effected by the Emperor Constantine were more rigorously enforced, and, in general, civil transactions of every kind on Sunday were strictly forbidden. Whoever transgressed was to be considered, in fact, as guilty of sacrilege.” — *Neander, Id.*, p. 300.

Then as the people were not allowed to do any manner of work, they would play, and as the natural consequence, the circuses and the theaters throughout the empire were crowded every Sunday. But the object of the law, from the first one that was issued, was that the day might be used for the purposes of devotion, and the people might go to church. Consequently, that this object might be met, there was another step to take, and it was taken. At a church convention held at Carthage in 401, the bishops passed a resolution to send up a petition to the emperor, praying —

“That the public shows might be transferred from the Christian Sunday, and from feast days, to some other days of the week.” — *Id.*

And the reason given in support of the petition was :—

“The people congregate more to the circus than to the church. — *Id.*, note 5.

In the circuses and the theaters large numbers of men were employed, among whom many were church-members. But, rather than to give up their jobs, they would work on Sunday. The bishops complained that these were compelled to work: they pronounced it persecution, and asked for a law to protect those persons from such “persecution.” The church had become filled with a mass of people, unconverted, who cared vastly more for worldly interests and pleasures than they did for religion. And as the government was now a government of God, it was

considered proper that the civil power should be used to cause all to show respect for God, whether or not they had any respect for him. But as long as they could make something by working on Sunday, they would work rather than go to church. A law was secured forbidding all manner of Sunday work. Then they would crowd the circuses and the theaters, instead of going to church. But this was not what the bishops wanted; this was not that for which all work had been forbidden. All work was forbidden in order that the people might go to church; but instead of that, they crowded to the circus and the theater, and the audiences of the bishops were rather slim. This was not at all satisfying to their pride; therefore the next step, and a logical one, too, was, as the petition prayed, to have the exhibitions of the circuses and the theaters transferred to some other days of the week, so that the churches and the theaters should not be open at the same time. For if both were open, the Christians (?), as well as others, not being able to go to both places at once, would go to the circus or the theater instead of to the church. Neander says:—

“Owing to the prevailing passion at that time, especially in the large cities, to run after the various public shows, it so happened that when these spectacles fell on the same days which had been consecrated by the church to some religious festival, they proved a great hindrance to the devotion of Christians, though chiefly, it must be allowed, to those whose Christianity was the least an affair of the life and of the heart.”—*Id.*

Assuredly! An open circus or theater will always prove a great hindrance to the devotion of those Christians whose Christianity is the least an affair of the life and of the heart. In other words, an open circus or theater will always be a great hindrance to the devotion of those who

have not religion enough to keep them from going to it, but who only want to use the profession of religion to maintain their popularity, and to promote their selfish interests. On the other hand, to the devotion of those whose Christianity is really an affair of the life and of the heart, an open circus or theater will never be a particle of hindrance, whether open at church time or all the time. But those people had not enough religion or love of right, to do what they thought to be right ; therefore they wanted the State to take away from them all opportunity to do wrong, so that they could all be Christians. Satan himself could be made that kind of Christian in that way ; but he would be Satan still.

Says Neander again :—

“Church teachers . . . were in truth often forced to complain that in such competitions the theater was vastly more frequented than the church.”—*Id.*

And the church could not then stand competition ; she wanted a monopoly. And she got it.

This petition of the Carthage Convention could not be granted at once, but in 425 the desired law was secured ; and to this also there was attached the reason that was given for the first Sunday law that ever was made ; namely,—

“In order that the devotion of the faithful might be free from all disturbance.”—*Id.*, p. 301.

It must constantly be borne in mind, however, that the only way in which “the devotion of the faithful” was “disturbed” by these things, was that when the circus or the theater was open at the same time that the church was open, the “faithful” would go to the circus or the theater instead of to church, and *therefore* their “devotion” was “disturbed.” And of course the only way in which the “devotion” of such “faithful” ones could be freed from all

disturbance, was to close the circuses and the theaters at church time.

In the logic of this theocratical scheme, there was one more step to be taken. It came about in this way: First the church had all work on Sunday forbidden, in order that the people might attend to things divine. But the people went to the circus and the theater instead of to church. Then the church had laws enacted closing the circuses and the theaters, in order that the people might attend to things divine. But even then the people would not be devoted, nor attend to things divine; for they had no real religion. The next step to be taken, therefore, in the logic of the situation, was to compel them to be devoted—to compel them to attend to things divine. This was the next step logically to be taken, and it was taken. The theocratical bishops were equal to the occasion. They were ready with a theory that exactly met the demands of the case; and the great Catholic Church Father and Catholic saint, Augustine, was the father of this Catholic saintly theory. He wrote:—

“It is indeed better that men should be brought to serve God by instruction than by fear of punishment, or by pain. But because the former means are better, the latter must not therefore be neglected. . . . Many must often be brought back to their Lord, like wicked servants, by the rod of temporal suffering, before they attain to the highest grade of religious development.”—*Schaff's Church History*, vol. 2, sec. 27.

Of this theory Neander remarks:—

“It was by Augustine, then, that a theory was proposed and founded, which . . . contained the germ of that whole system of spiritual despotism of intolerance and persecution, which ended in the tribunals of the Inquisition.”—*Church History*, p. 217.

The history of the Inquisition is only the history of

the carrying out of this infamous theory of Augustine's. But this theory is only the logical sequence of the theory upon which the whole series of Sunday laws was founded.

Then says Neander :—

“In this way the church received help from the State for the furtherance of her ends.”

This statement is correct. Constantine did many things to favor the bishops. He gave them money and political preference. He made their decisions in disputed cases final, as the decision of Jesus Christ. But in nothing that he did for them did he give them power over those who did not belong to the church, to compel them to act as though they did, except in that one thing of the Sunday law. Their decisions, which he decreed to be final, were binding only on those who voluntarily chose that tribunal, and affected none others. Before this time, if any who had repaired to the tribunal of the bishops were dissatisfied with the decision, they could appeal to the civil magistrate. This edict cut off that source of appeal, yet affected none but those who voluntarily chose the arbitration of the bishops. But in the Sunday law, power was given to the church to compel those who did not belong to the church, and who were not subject to the jurisdiction of the church, to obey the commands of the church. In the Sunday law there was given to the church control of the civil power, that by it she could compel those who did not belong to the church to act as if they did. The history of Constantine's time may be searched through and through, and it will be found that in nothing did he give to the church any such power, except in this one thing—the Sunday law. Neander's statement is literally correct, that it was “in this way the church received help from the State for the furtherance of her ends.”

Here let us bring together more closely the direct bearing of these statements from Neander. First, he says of the carrying into effect of the theocratical theory of those bishops, that they made themselves dependent upon Constantine by their disputes, and "by their determination to use the power of the State for the furtherance of their aims." Then he mentions the first and second Sunday laws of Constantine, the Sunday law of 386, the Carthage Convention, resolution, and petition of 401, and the law of 425 in response to this petition; and then, without a break, and with direct reference to these Sunday laws, he says: "*In this way* the church received help from the State for the furtherance of her ends." She started out with the determination to do it; she did it; and "*in this way*" she did it. And when she had secured control of the power of the State, she used it for the furtherance of her own aims, and that in her own despotic way, as announced in the Inquisitorial theory of Augustine. The first step logically and inevitably led to the last; and the theocratical leaders in the movement had the cruel courage to follow the first step unto the last, as framed in the words of Augustine, and illustrated in the history of the Inquisition.

LOOK ON THAT PICTURE, THEN ON THIS.

In a preceding chapter, we have given *verbatim* the Blair National Sunday bill, and have discussed some of its provisions. As we have seen, its object is clearly declared to be, to secure to the whole people rest on the Lord's day, and "to promote its observance as a day of worship;" and everything in the bill is to be construed, as far as possible, to secure the observance of the Sabbath "as a day of worship." This is the purpose of the bill: what is the purpose of those who are working so strenuously to have the bill become a law?

On Nov. 8, 1887, a convention was held in Elgin, Ill., which was "called by the members of the Elgin Association of Congregational Ministers and Churches, to consider the prevalent desecration of the Sabbath, and its remedy." In that convention, Dr. W. W. Everts, of Chicago, said : —

"This day is set apart for divine worship and preparation for another life. It is the test of all religion."

This clearly shows that the object of those who are working for Sunday laws is wholly religious, and that they are endeavoring to secure the power of the State to further their own aims. The Sabbath is indeed set apart for divine worship and preparation for another life ; but the observances of divine worship, and the preparation of men for another life, are committed by Jesus Christ to the church. The State cannot of right have anything to do with religious observances, and it is impossible for the civil power to prepare men for another life. Therefore, as this work belongs wholly to the church, and as the church wants to use the civil power for this purpose, it follows that these church leaders of our day, like those of the fourth century, are determined to make use of the power of the State to further their own aims.

"It is the test of all religion," says Dr. Everts. Then what can ever be the enforcement of it but the enforcement of a religious test? That is precisely what it is. Again, the same speaker said : —

"The people who do not keep the Sabbath, have no religion."

Very good. The antithesis of this is also true: the people who do keep the Sabbath have religion. Therefore this demand for laws to compel men to keep the Sabbath, is only a demand for laws to compel people to have religion.

Again Dr. Everts said :—

“He who does not keep the Sabbath, does not worship God ; and he who does not worship God, is lost.”

Admitted. Therefore this demand for laws to compel men to keep the Sabbath, is only a demand for laws to compel them to worship God.

Nor is Mr. Everts alone in this. Joseph Cook, in the Boston Monday lectureship of 1887, said :—

“The experience of centuries shows that you will in vain endeavor to preserve Sunday as a day of rest, unless you preserve it *as a day of worship*.”

And Dr. Wilbur F. Crafts, in the Washington, D. C., national Sunday convention, Dec. 11–13, 1888, said :—

“If you take *religion* out of the day, you take the *rest* out of it.”

These statements from the representative men of this movement, are sufficient to show that the movement is wholly religious. But, we repeat, religious observances and the promotion of religion, God has committed to the church only. Therefore this Sunday-law movement, as that in the fourth century, is only an effort on the part of the church to make use of the power of the State for the furtherance of her aims. More than this, to the church, and to her alone, God has committed the power by which alone religion can be promoted ; that is, the power of the Holy Spirit. So long as she has this power, she needs no other, and she will ask for no other. Therefore by this so widely prevalent movement on the part of the church to secure the power of the State by which to promote religion and religious observances, it is proved that the church has lost the power of promoting religious observances.

The object of this movement is not only identical with that of the fourth century, but the arguments and methods

used to attain that object are identical with those of the fourth century. There it was pleaded that without a Sunday law the people would not sufficiently attend to things divine.

At the Elgin convention, the following resolutions were passed :—

“*Resolved*, That we recognize the Sabbath as an institution of God, revealed in nature and the Bible, and of perpetual obligation on all men; and also as a civil and American institution, bound up in vital and historical connection with the origin and foundation of our Government, the growth of our polity, and necessary to be maintained in order for the preservation and integrity of our national system, and therefore as having a sacred claim on all patriotic American citizens.”

Let us read the commandment according to this resolution: Remember the Sabbath day, to keep it civilly. The seventh day is the American Sabbath, and you shall keep it civilly, because in six days the Americans made the heavens and the earth, and on the seventh day they rested. Wherefore they blessed the Sabbath day, and civilized it.

“The seventh day is the Sabbath of *the Lord thy God*,” is what the commandment says, and that is whose it is. The word *Sabbath* means rest. But the rest belongs to the one who rested. Who rested?—God. From what?—From the work of creation. “Remember the Sabbath day, to keep it holy,” says the commandment. It is religious entirely. There is nothing either American or civil about it. It is the Lord’s, and it is holy. If it is not kept holy, it is not kept at all. And being the Sabbath of the Lord—the Lord’s day—it is to be rendered to the Lord, and not to Cæsar. With its observance or non-observance, civil government can never of right have anything to do. The second resolution was this :—

“*Resolved*, That we look with shame and sorrow on the non-observance of the Sabbath by many Christian people, in that the custom prevails with them of purchasing Sabbath newspapers, engaging in and patronizing Sabbath business and travel, and in many instances giving themselves to pleasure and self-indulgence, setting aside by neglect and indifference the great duties and privileges which God's day brings them.”

That is a fact. They ought to be ashamed of it. But what do they do to rectify the matter? Do they resolve to preach the gospel better? to be more faithful themselves in bringing up the consciences of the people, by showing them their duty in regard to these things?—Oh, no. They resolve to do this:—

“*Resolved*, That we give our votes and support to those candidates or political officers who will pledge themselves to vote for the enactment and enforcing of statutes in favor of the civil Sabbath.”

Yes, they are ashamed and sorry that Christians will not act like Christians, morally and religiously; therefore they will compel them to act both morally and religiously, by enforcing upon them a *civil* Sabbath! But if men will not obey the commandment of God, without being compelled to do it by the civil law, then when they obey the civil law, are they obeying God?—They are not. Do not these people, then, in that, put the civil law in the place of the law of God, and the civil government in the place of God?—They assuredly do. And that is always the inevitable effect of such attempts as this. It makes utter confusion of all civil and religious relations, and only adds hypocrisy to guilt, and increases unto more ungodliness. There is another important consideration just here. They never intend to secure nor to enforce a civil Sunday, but a religious one wholly; for in all the discussions of that whole convention, there was not a word said about a *civil*

Sabbath, except in two of these resolutions. In the discussions of the resolutions themselves, everything was upon a religious basis. There is no such thing as a civil Sunday ; and no man can argue three minutes in favor of a civil Sunday, without making it only what it is, religious wholly.

In a Sunday-law mass-meeting held in Hamilton Hall, Oakland, Cal., in January, 1887, Rev. Dr. Briggs, of Napa, Cal., said to the State : —

“ You relegate moral instruction to the church, and then let all go as they please on Sunday, so that we cannot get at them.”

And so they want the State to *corral* all the people on Sunday, that the preachers may get at them. That is what they wanted in the fourth century. They got it at last.

They demand that the Sunday paper shall be abolished, because, as stated by Dr. Everts in the Elgin convention : —

“ The laboring class are apt to rise late on Sunday morning, read the Sunday papers, and allow the *hour of worship* to go by unheeded.”

And Dr. Herrick Johnson, in the Illinois Sunday convention, in Farwell Hall, Chicago, Nov. 20, 21, 1888, said of the Sunday newspaper : —

“ The saloon cannot come into our homes ; the house of ill-fame cannot come into our parlors ; but the Sunday paper is everywhere. It creeps into our homes on Sunday. It can so easily be put into the pocket and taken into the parlor and read.”

Then he named the matter with which he said the Sunday papers are filled, — “ crime, scandal, gossip, news, and politics,” — and said : —

"What a *melange!* what a dish to set down before a man before breakfast and after breakfast, *to prepare him for hearing the word of God!* It makes it twice as hard to reach those who go to the sanctuary, and it *keeps many away from the house of worship altogether.* They read the paper; the time comes to go to church; but it is said, 'Here is something interesting; I will read it, and not go to church to-day.'"

The Sunday railway train must also be stopped, and for the same reason. In the speech above referred to, Dr. Johnson, speaking of the *Inter Ocean* Sunday news-train, described how the people would flock to the station to see the train, and said: —

"In the Sabbath lull from politics, business, etc., the people would go to church were it not for the attraction of the *Inter Ocean* special train."

In the Elgin convention, Dr. Everts said: —

"The Sunday train is another great evil. They cannot afford to run a train unless they get a great many passengers, and *so break up a great many congregations.* The Sunday railroad trains are hurrying their passengers fast on to perdition. What an outrage that the railroad, that great civilizer, should destroy the Christian Sabbath!"

And "Rev." M. A. Gault, of the National Reform Association, in the *Christian Statesman*, Sept. 25, 1884, said: —

"This railroad [the Chicago and Rock Island] has been running excursion trains from Des Moines to Colfax Springs on the Sabbath for some time, and the ministers complain that their members go on these excursions."

It is not necessary to add any more statements; they are all in the same line. They all plainly show that the secret and real object of the whole Sunday-law movement is to get the people to go to church. The Sunday train must be stopped, because church-members ride on it,

and don't go to church enough. The Sunday paper must be abolished, because the people read it instead of going to church, and because those who read it and go to church too, are not so well prepared to receive the preaching.

It was precisely the same way in the fourth century concerning the Sunday circus and theater. The people, even the church-members, would go to these instead of to church; and even if any went to both, it must be confessed that the Roman circus or theater was not a very excellent dish—"What a *melange*!"—to set down before a man to prepare him for hearing the word of God. The Sunday circus and theater could not afford to keep open unless they could get a great many spectators, and so break up a great many congregations. And as they hurried the spectators fast on to perdition, they had to be shut on Sunday, so as to keep "a great many congregations" out of perdition. It is exceedingly difficult to see how a Sunday circus in the fourth century could hurry to perdition any one who did not attend it; or how a Sunday train in the nineteenth century can hurry to perdition any one who does not ride on it. And if any are hurried to perdition by this means, who is to blame: the Sunday train, or the ones who ride on it? And Dr. Johnson's complaint of the Sunday papers' being worse than the saloon or the house of ill-fame, because these cannot get into the home, while the paper can be put into the pocket and taken into the home, is of the same flimsy piece. The saloon can be taken into the home, if a person will but put it into his pocket, and the house of ill-fame can be taken into the parlor, if a man will put it under his cloak; and if the Sunday paper gets there by being put into the pocket, where lies the blame: upon the paper, or upon the one who puts it into his pocket? Right here lies the secret of the whole evil now, as it did

in the fourth century: they blame everybody and everything else, even to inanimate things, for the irreligion, the infidelity, and the sin that lie in their own hearts.

Nor are they going to be content with a little. Dr. Crafts, speaking before the United States Senate committee in April, 1888, in favor of the National Sunday law, said:—

“The law allows the local postmaster, if he chooses (and some of them do choose), to open the mails at the very hour of church, and so make the post-office the competitor of the churches.”

This same trouble was experienced in the fourth century also, between the circus or the theater, and the church. The church could not stand competition; she would be content with nothing less than a monopoly, and she got it, precisely as these church managers are trying to get it. More than this, they want now, as they did then, the government to secure them in the enjoyment of a perpetual monopoly. At another point in the same speech, Mr. Crafts referred to the proposed law as one for “protecting the church services from post-office competition.” And in explaining how this could be done, he said:—

“A law forbidding the opening between ten and twelve, would accomplish this, and would be better than nothing; *but we want more.*”

How much more? He continues:—

“A law forbidding any handling of Sunday mail at such hours as would interfere with church attendance on the part of the employees, would be better than nothing; *but we want more than this.*”

How much more? He continues:—

“Local option in deciding whether a local post-office shall be open at all on Sunday, we should welcome as

better than nothing ; . . . *but we desire more than this.*"

How much more ? Still he continues : —

"A law forbidding all carrier delivery of mail on Sunday, would be better than nothing ; *but we want more than that.*"

Then he says : —

"What we ask is a law instructing the postmaster-general to make no further contracts which shall include the carrying of mails on the Sabbath, and to provide that hereafter no mail matter shall be collected or distributed on that day."

But when they shall have secured the help of the Government in carrying their monopolizing ambition thus far, will they be content ? — Not at all. Nothing short of a complete and perpetual monopoly will satisfy them. This is proved by Dr. Mc Allister's words at Lakeside, Ohio, July, 1887, as follows : —

"Let a man be what he may, — Jew, seventh-day observer of some other denomination, or those who do not believe in the Christian Sabbath, — let the law apply to every one, that there shall be no public desecration of the first day of the week, the Christian Sabbath, the day of rest for the nation. They may hold any other day of the week as sacred, and observe it ; but that day which is the one day in seven for the nation at large, let that not be publicly desecrated by any one, by officer in the Government, or by private citizen, high or low, rich or poor."

There is much being said of the grasping, grinding greed of monopolies of many kinds ; but of all monopolies on earth, the most grinding, the most greedy, the most oppressive, the most conscienceless, is a religious monopoly.

When they shall have stopped all Sunday work, and all Sunday papers, and all Sunday trains, in order that the people may go to church and attend to things divine, suppose that then the people fail to go to church or attend

to things divine: will the religio-political managers stop there? Having done all this that the people may be devoted, will they suffer their good intentions to be frustrated, or their good offices to be despised? Will not these now take the next logical step, the step that was taken in the fourth century, and *compel* men to attend to things divine? If not, why not? Having taken all the steps but this, will they not take this?—They will. Human nature is the same now as it was in the fourth century. Politics is the same now as it was then. And as for religious bigotry, it knows no centuries; it knows no such thing as progress or enlightenment; it is ever the same. And in its control of civil power, the cruel results are also ever the same.

This probability is made yet more certain by the fact that the theory which is the basis of all this legislation, is also identical with that of the religio-political element in the fourth century. A theocratical theory of government was the basis of the religious legislation in the fourth century; it is the same now. The Woman's Christian Temperance Union is the most active and influential body in the Sunday-law movement now. The great majority of the petitions for the Blair Sunday law, except that of their seven-million-two-hundred-thousand-times-multiplied Cardinal, have been secured by the W. C. T. U.; and for convenience' sake we shall here repeat some quotations already given, showing the theory and purpose which that organization has in view:—

“A true theocracy is yet to come, and the enthronement of Christ in law and law-makers; hence I pray devoutly as a Christian patriot, for the ballot in the hands of women, and rejoice that the National Woman's Christian Temperance Union has so long championed this cause.”

“The Woman's Christian Temperance Union, local, State, national, and world-wide, has one vital, organic

thought, one all absorbing purpose, one undying enthusiasm, and that is that Christ shall be *this world's king*;—yea, verily, **THIS WORLD'S KING** in its realm of cause and effect,—king of its courts, its camps, its commerce,—king of its colleges and cloisters,—king of its customs and its constitutions. . . . The kingdom of Christ must enter the realm of law through the gate-way of politics. . . . We pray Heaven to give them [the old parties] no rest . . . until they shall . . . swear an oath of allegiance to Christ in politics, and march in one great army up to the polls to worship God.”—*President's Annual Address in Convention*, Nashville, 1887.

We have before shown that the W. C. T. U. is allied with the National Reform Association, and that their object is declared to be, upon a theocratical theory, to turn this republic into a kingdom of God. In the Cincinnati National Reform convention, 1872, Prof. J. R. W. Sloane, D. D., said :—

“Every government by equitable laws, is a government of God. A republic thus governed is of Him, through the people, and is as truly and really a theocracy as the commonwealth of Israel.”

By the expression “government by equitable laws,” Mr. Sloane and the National Reformers generally mean such a government as the National Reformers seek to have established. According to their theory, our Government as it is, is not a government by equitable laws, but is entirely founded upon infidel and atheistic ideas. Consequently they want the Constitution religiously amended, and framed upon their ideas; then it will be a government by equitable laws, and will be as truly and really a theocracy as was the commonwealth of Israel.

The Sunday-law Association also holds much the same theory. In the Elgin Sunday-law convention, Dr. Man-deville, of Chicago, said :—

“The merchants of Tyre insisted upon selling goods near the temple on the Sabbath, and Nehemiah compelled

the officers of the law to do their duty, and stop it. So we can compel the officers of the law to do their duty."

Now Nehemiah was ruling there in a true theocracy, a government of God; the law of God was the law of the land, and God's will was made known by the written word, and by the prophets. Therefore if Dr. Mandeville's argument is of any force at all, it is so only upon the claim of the establishment of a theocracy. With this idea the view of Dr. Crafts agrees precisely, and Dr. Crafts is general secretary for the National Sunday-law Union. He claims, as expressed in his own words, that —

"The preachers are the successors of the prophets." — *Christian Statesman*, July 5, 1888.

Now put these things together. The government of Israel was a theocracy; the will of God was made known to the ruler by prophets; the ruler compelled the officers of the law to prevent the ungodly from selling goods on the Sabbath. This government is to be made a theocracy; the preachers are the successors of the prophets; and they are to compel the officers of the law to prevent all selling of goods and all manner of work on Sunday. This shows conclusively that these preachers intend to take the supremacy into their hands, officially declare the will of God, and compel all men to conform to it. And this deduction is made certain by the words of Prof. Blanchard, in the Elgin convention: —

"In this work we are undertaking for the Sabbath, we are the representatives of God."

And the chief of these representatives of God, will be but a pope again; because when preachers control the civil power as the representatives of God, a pope is inevitable.

These quotations prove, to a demonstration, that the whole theory upon which this religio-political movement is based, is identical with that of the fourth century,

which established the papacy. They show also that the means employed — Sunday laws — by which to gain control of the civil power to make the wicked theory effective, are identical with the means which were employed in the fourth century for the same purpose. The next question is, Will they carry the theory into effect as they did in the fourth century and onward? In other words, when they get the power to oppress, will they use the power? A sufficient answer to this would seem to be the simple inquiry, If they do not intend to use the power, then why are they making such strenuous efforts to get it? But we are not left to this inquiry for an answer to the question; we have some of their own words. We may first refer the reader again to the quotations from the National Reformers on pages 51-56. And these quotations apply with special force to the question of Sunday observance; for they declare that —

“The observance of the Sabbath [Sunday] is an acknowledgment of the sovereign rights of God over us.”

Then when they secure the law, it will be a national acknowledgment of the sovereign rights of God; and for any one to refuse to keep Sunday, will be treason, as declared by one of their own preachers (Rev. W. M. Grier, of Due West, South Carolina) in the Philadelphia convention, 1888: —

“Every sin, secret or public, against God, is a sin against our country, and is high treason against the State.”— *Christian Statesman*, August 9, 1888.

Every sin, whether “secret or public,” being “high treason” against the State, the State must punish it, even secret sin. But how shall the State discover secret sins, except by an Inquisition? This again confirms the logic of the theocratical theory of earthly government — that the Inquisition is the inevitable consequence.

Then so far as the National Reformers are concerned, it is certain that they are ready to use the power which they are doing their best to secure.

In the Elgin convention, Dr. Mandeville said further on the subject of Sunday laws : —

“When the church of God awakes and does its duty on one side, and the State on the other, we shall have no further trouble in this matter.”

Yes, we remember how it was before, when the church and the State were united. The gentle Albigenes in Southern France greatly disturbed the church. But the church was wide awake ; for Innocent III. was pope. Philip Augustus was king of France ; and the church awoke the State with the cry, “Up, most Christian king ! up, and aid us in our work of vengeance !” And thus, with the energy of the pope on one side, and of Philip on the other, the soldiers of Philip marched down upon the Albigenes, and swept them from the earth. And as “the church did its duty on one side and the State on the other,” there was no further trouble in that matter.

In September, 1888, a minister in Selma, Cal., preaching on the subject of Sunday temperance and Sunday prohibition, said : —

“We have laws to punish the man who steals our property ; but we have no law to prevent people from working on Sunday. It is right that the thief be punished ; but I have more sympathy for that man than I have for him that works on that day.”

Let that man have control of the power to compel a man to keep Sunday, and he will punish the man who works on Sunday, just as he would a thief.

At a National Reform W. C. T. U. convention held at Lakeside, Ohio, in 1887, the following question was asked : —

“Will not the National Reform movement result in persecution against those who on some points believe differently from the majority, even as the recognition of the Christian religion by the Roman power resulted in grievous persecution against true Christians?”

Answer, by Dr. Mc Allister : —

“Now notice the fallacy here. The recognition of the Roman Catholic religion by the State, made that State a persecuting power. Why?—Because the Roman Catholic religion is a persecuting religion. If true Christianity is a persecuting religion, then the acknowledgment of our principles by the State will make the State a persecutor. But if the true Christian religion is a religion of liberty, a religion that regards the rights of all, then the acknowledgment of those principles by the State will make the State the guardian of all men, and the State will be no persecutor. True religion never persecutes.”

There is indeed a fallacy here; but it is not in the question; it is in the answer. That which made the Roman State a persecuting power, says the Doctor, was its recognition of the Catholic religion, “which is a persecuting religion.” But the Roman Catholic religion is not the only persecuting religion that has been in the world. Presbyterianism persecuted while John Calvin ruled in Geneva; it persecuted while the Covenanters ruled in Scotland; it persecuted while it held the power in England. Congregationalism persecuted while it had the power in New England. Episcopalianism persecuted in England and in Virginia. Every religion that has been allied with the civil power, or that has controlled the civil power, has been a persecuting religion; and such will always be the case. Mr. Mc Allister’s implied statement is true, that “true Christianity never persecutes;” but it is true only because true Christianity never will allow itself to be allied in any way with the civil power, or to receive any support from it. The National Reform Asso-

ciation does propose to "enforce upon all, the laws of Christian morality;" it proposes to have the Government adopt the National Reform religion, and then "lay its hand upon any religion that does not conform to it;" and it asserts that the civil power has the right "to command the consciences of men." Now any such thing carried into effect as is here plainly proposed by that Association, can never be anything else than persecution. But Mr. McAllister affirms that the National Reform movement, if successful, would not lead to persecution, "because true religion never persecutes." The Doctor's argument amounts only to this: The National Reform religion is the true religion. True religion never persecutes. Therefore to compel men to conform to the true religion,—that is, the religion that controls the civil power,—is not persecution.

In A. D. 556, Pope Pelagius called upon Narses to compel certain parties to obey the pope's command. Narses refused, on the ground that it would be persecution. The pope answered Narses's objection with this argument:—

"Be not alarmed at the idle talk of some, crying out against persecution, and reproaching the church, as if she delighted in cruelty, when she punishes evil with wholesome severities, or procures the salvation of souls. *He alone persecutes who forces to evil.* But to restrain men from doing evil, or to punish those who have done it, is not persecution, or cruelty, but love of mankind." — *Bower's History of the Popes*, Pelagius, A. D. 556.

Compare this with Dr. McAllister's answer, and find any difference, in principle, between them, who can. There is no difference. The argument is identical. It is the essential spirit of the papacy which is displayed in both, and in that of Pope Pelagius no more than in that of Dr. McAllister.

Another question, or rather statement, was this : —

“There is a law in the State of Arkansas enforcing Sunday observance upon the people, and the result has been that many good persons have not only been imprisoned, but have lost their property, and even their lives.”

Answer, by Dr. Mc Allister : —

“It is better that a few should suffer, than that the whole nation should lose its Sabbath.”

This argument is identical with that by which the Pharisees in Christ's day justified themselves in killing him. It was said : —

“It is expedient for us that one man should die for the people, and that the whole nation perish not.” John 11:50.

And then says the record : —

“Then from that day forth they took counsel together for to put him to death.” Verse 53.

The argument used in support of the claim of *right to use* this power, is identical with that used by the papacy in inaugurating her persecutions ; the argument in justification of the *use* of the power, is identical with that by which the murderers of Jesus Christ justified themselves in accomplishing that wicked deed ; and if anybody thinks that these men in our day, proceeding upon the identical theory, in the identical way, and justifying their proceedings by arguments identical with those of the papacy and the murderous Pharisees, — if anybody thinks that these men will stop short of persecution, he has vastly more confidence in apostate humanity than we have.

Nor are we left wholly to logical deduction in this. Dec. 14, 1887, Rev. W. T. McConnell, of Youngstown, Ohio, published in the *Christian Nation* an open letter to the editor of the *American Sentinel*, in which he said : —

"You look for trouble in this land in the future, if these principles are applied. I think it will come to you, if you maintain your present position. The fool-hardy fellow who persists in standing on a railroad track, may well anticipate trouble when he hears the rumble of the coming train. If he shall read the signs of the times in the screaming whistle and flaming head-light, he may change his position and avoid the danger ; but if he won't be influenced by these, his most gloomy forebodings of trouble will be realized when the express strikes him. So you, neighbor, if, through prejudice or the enmity of unregenerate hearts, you have determined to oppose the progress of this nation in fulfilling its vocation as an instrument in the divine work of regenerating human society, may rightly expect trouble. It will be sure to come to you."

Certainly it will. That is the spirit of the wicked scheme from the first effort ever made to secure a Sunday law unto this last.

We need not multiply evidences further, to show that this whole religio-political Sunday-law movement of our day is of the same piece with that in the fourth century. The theory is the same ; the means and the arguments are the same in both ; and two things that are so precisely alike in the making, will be exactly alike when they are made. That in the fourth century made the papacy ; and this in the nineteenth century will make a living likeness of the papacy.

Sunday has no basis whatever as a civil institution ; it never had any. And the only basis it has, or ever had, as a *religious* institution, is the authority of the papacy. This is both the law and the literal truth in the case.

It was perfectly in order, therefore, for Cardinal Gibbons to endorse a movement to give to Sunday the legal sanction and support of the United States Government and thus secure the governmental recognition of the authority of the papacy. The Cardinal's endorsement has been heralded by the Sunday-law workers throughout the

length and breadth of the land, as a mighty accession to the Sunday-law movement. And, as a matter of fact, it is a mighty accession ; but to what purpose ? The following letter from the Cardinal to Mr. E. E. Franke, of Pittsburg, Pa., will show : —

“CARDINAL’S RESIDENCE,
408 NORTH CHARLES ST., BALTIMORE, MD., }
Oct. 3, 1889.

“DEAR MR. FRANKE: At the request of His Eminence, the Cardinal, I write to assure you that you are correct in your assertion that Protestants in observing the Sunday are following, not the *Bible*, which they take as their only rule of action, but the *tradition* of the church. I defy them to point out to me the word *Sunday* in the Bible ; if it is not to be found there, and it cannot be, then it is not the Bible which they follow in this particular instance, but tradition, and in this they flatly contradict themselves.

“The Catholic Church changed the day of rest from the last to the first day of the week, because the most memorable of Christ’s works was accomplished on Sunday. It is needless for me to enter into any elaborate proof of the matter. They cannot prove their point from Scripture ; therefore, if sincere, they must acknowledge that they draw their observance of the Sunday from tradition, and are therefore weekly contradicting themselves.

“Yours very sincerely,

“M. A. REARDON.”

This shows that it is *as a Roman Catholic*, securing honor to an institution of the papacy, and thus to the papacy itself, that Cardinal Gibbons has endorsed the national Sunday-law movement. The Cardinal understands what he is doing a great deal better than Mr. Crafts, Mrs. Bateham, Mr. Blair, and Mr. Breckenridge understand what they are doing. And further, the Cardinal understands what they are doing a great deal better than they themselves do. This also shows that those who sign the petition for a Sunday law, as the Cardinal did, are honoring the papacy, as the Cardinal does.

CHAPTER VII.

THE WORKINGS OF A SUNDAY LAW.

WE have shown by the literature and the logic of this whole Sunday-law question, that if the movement should succeed, it would be but the establishment of a religious despotism in this country. We have shown by their own statements that the principles held by the National Reformers are essentially papal, and that in the carrying out of these principles, they deliberately make propositions that betray the spirit of the Inquisition. But we are not compelled to stop with the principles or the logic of the case. We have some facts which show that such is the only effect of the kind of Sunday laws these people demand, as embodied in the Blair Sunday bill.

In 1885, Arkansas had Sunday laws reading as follows:—

“SECTION 1883. Every person who shall on the Sabbath, or Sunday, be found laboring, or shall compel his apprentice or servant to labor or perform service other than customary household duties of daily necessity, comfort, or charity, on conviction thereof shall be fined one dollar for each separate offense.

“SEC. 1884. Every apprentice or servant compelled to labor on Sunday shall be deemed a separate offense of the master.

“SEC. 1885. The provision of this act shall not apply to steamboats and other vessels navigating the waters of the State, nor such manufacturing establishments as require to be kept in continual operation.

"SEC. 1886. Persons who are members of any religious society who observe as Sabbath any other day of the week than the Christian Sabbath, or Sunday, shall not be subject to the penalties of this act (the Sunday law), so that they observe one day in seven, agreeable to the faith and practice of their church or society."

In the session of the Arkansas Legislature of 1885, Section 1886 was repealed, by act of March 3. The object of those who secured the repeal of that section, was, as they said, to close the saloons. It was claimed that under cover of that section, certain Jews who kept saloons in Little Rock, had successfully defied the law against Sunday saloons, and that there was no way to secure the proper enforcement of the law without the repeal of that section. The legislators believed the statements made, and repealed the section as stated.

The history of the repeal, according to the journals of the Senate and the House of the Arkansas General Assembly, is as follows:—

The legislature convened Jan. 12, 1885. January 24, Senator Anderson introduced a bill—Senate bill number 70—entitled, "A Bill to Prevent Sabbath-breaking," which was read the first time. January 26, it was read the second time, and referred to the Committee on Judiciary. January 31, it was reported back by Mr. Hicks, chairman of the committee, with the recommendation that it should pass. February 3, it was read the third time, and put upon its passage, and was carried by a vote of twenty-two to four. Absent or not voting, six. It was then sent to the House, and was read for the first time there February 3. The rules were then suspended; it was read a second time, and was referred to the Committee on Judiciary. Some amendments were offered, which were also referred to the committee, with the bill. February 24, this committee made the following report:—

"MR. SPEAKER : Your Committee on Judiciary, to whom was referred the Senate bill No. 70, a bill to prevent Sabbath-breaking, beg leave to report that they have had the bill under consideration, and herewith return the same, with the recommendation that it be passed without amendment.

THORNBURGH, *Chairman.*"

February 27, the bill was read the third time in the House, put upon its passage, and was carried by a vote of sixty-three to twenty-six. Absent or not voting, six. The same day, the House notified the Senate that it had passed Senate bill No. 70. March 7, 1885, the act received the approval of the governor, Simon P. Hughes.

Bear in mind that the object of this movement was said to be to close the saloons on Sunday ; and what discussion there was on the bill in both the Senate and the House, shows that such was the object, so far as the legislators understood it. But when the act was secured, and was framed into a law, not a saloon was closed, nor was there an attempt made, any more than before, to close them. Not one of the saloon-keepers was prosecuted. And in Little Rock itself, during the session of the legislature of 1887, when the law was in full force, up to the time of the restoration of the exemption clause, the saloons kept their doors wide open, and conducted their business with no effort at concealment, the same as they had before the act was passed. But, so far as we have been able to learn by diligent investigation, from the day of its passage, the law was used for no other purpose than to punish peaceable citizens of the State who observed the seventh day as the Sabbath, and exercised their God-given right to work on Sunday.

FIRST CASE.

Eld. J. W. Scoles.

Eld. J. W. Scoles, a Seventh-day Adventist minister, had gone from Michigan to Arkansas in June, 1884, to assist Eld. D. A. Wellman in holding some meetings at Springdale, Washington Co. As the result of these meetings, quite a number of persons adopted the faith of that body, and practiced accordingly. In September, 1884, Eld. Wellman died, and Eld. Scoles continued the work in that place. In the winter of 1884-85, Eld. J. G. Wood went from Appleton City, Mo., to assist Eld. Scoles at Springdale. A church was organized in that place early in 1885, and the erection of a meeting-house was begun at once. In addition to his subscription to the enterprise, Eld. Scoles agreed to paint the house when it should be ready. Further than this, we have the words of Eld. Scoles himself. He says:—

“I volunteered to do the painting as my share of the work, in addition to my subscription. I worked away at the church at odd times, sometimes half a day and sometimes more, as I could spare the time. The last Sunday in April, 1885, in order to finish the work so I could be free to go out for the summer's labor with the tent, and expecting to go the next day twenty miles, I went over to the church, and finished up a small strip of painting on the south side of the house, clear out of sight of all public roads; and here I quietly worked away for perhaps two hours, in which time I finished it, and then went home. It was for this offense that I was indicted.”

At the fall term of the Circuit Court held at Fayetteville, Mr. J. A. Armstrong, of Springdale, was summoned before the Grand Jury. He was asked if he knew of any violations of the Sunday law. He said he did.

Grand Jury.—“Who are they?”

Armstrong.—“The 'Frisco Railroad is running trains every Sunday.”

G. F. — "Do you know of any others."

A. — "Yes; the hotels of this place are open, and do a full run of business on Sunday, as on other days."

G. F. — "Do you know of any others?"

A. — "Yes, sir; the drug-stores and barber-shops all keep open, and do business every Sunday."

G. F. — "Do you know of any others?"

A. — "Yes; the livery-stables do more business on Sunday than on any other day of the week."

After several repetitions of this same form of questions and answers, in much the same manner, in relation to other lines of business, this question was reached:—

G. F. — "Do you know of any Seventh-day Adventists who ever work on Sunday?"

A. — "Yes, sir."

After getting from the witness the names of his brethren, indictments were found against five persons, all of whom were Seventh-day Adventists. Eld. Scoles was one of the five. The indictment read as follows:—

"STATE OF ARKANSAS	}	<i>Indictment.</i>
<i>vs.</i>		
J. W. SCOLES.		

"The Grand Jury of Washington County, in the name and by the authority of the State of Arkansas, accuse J. W. Scoles of the crime of Sabbath-breaking, committed as follows; viz., the said J. W. Scoles, on Sunday, the 26th day of April, 1885, in the county and State aforesaid, did unlawfully perform labor other than customary household duties of daily comfort, necessity, or charity, against the peace and dignity of the State of Arkansas.

"J. P. HENDERSON, *Pros. Att'y.*"

Mr. Scoles was convicted. An appeal was taken to the Supreme Court of the State. October 30, 1886, the judgment of the Circuit Court was affirmed by the Supreme Court. Almost a score of cases essentially the same as the case of Eld. Scoles, were held over in the different Circuit Courts of the State, awaiting the decision of the Supreme Court in his case. All these cases now came up for trial, of which we print the facts:—

SECOND CASE.

Allen Meeks, Star of the West, Ark.

Mr. Meeks had been a resident of Arkansas since 1856, with the exception of one year. He had held the office of Justice of the Peace for a number of years both before and after the war. When he became a Seventh-day Adventist, he refused to hold the office longer, because its duties conflicted with his observance of the Sabbath.

Mr. Meeks was indicted at the July term of the Circuit Court, 1885, for Sabbath-breaking. He was arrested in November, 1885, and held under bonds of \$500 for his appearance in January. The offense for which he was indicted, was planting potatoes on Sunday—the third Sunday in March, 1885. The work was done near Mr. Meeks's own house, and not nearer than two and a half miles to any public road or any place of public worship.

On the day referred to, Mr. LaFever and his wife went to visit Mr. Meeks at his home, and found Mr. Meeks planting potatoes. Mr. Meeks quit his work, and spent the rest of the day visiting with Mr. LaFever. LaFever afterward reported Mr. Meeks to the Grand Jury; and as the consequence, Mr. Meeks was indicted as stated. The fourth Monday in January, Meeks appeared before Judge Herne. His case was laid over to await the decision of the Supreme Court in the Scoles case.

THIRD CASE.

Foe McCoy, Magnet Cove, Ark.

Mr. McCoy moved from Louisville, Ky., to Arkansas, in 1873. He served as constable seven years, and two terms as Justice of the Peace, in Hot Spring County. In 1884, he became a Seventh-day Adventist. At the August, 1885, term of the Circuit Court in Hot Spring County, he was indicted for Sabbath-breaking, on the voluntary

evidence of a Mr. Thomas Garrett. The particular offense with which he was charged, was plowing on Sunday. The witness was a Mr. Weatherford, a member of the Methodist Church. The work was done half a mile from any public road, and entirely away from any place of public worship.

Mr. Weatherford went into the field where Mr. Mc Coy was plowing, and spent several hours with him, walking around as he plowed. He was summoned as a witness in the case, by the Grand Jury. In September, 1885, Mr. Mc Coy was arrested, and held under bonds for his appearance. When he appeared at the February term of Court, his case, with others, was laid over to await the decision of the Supreme Court.

Mr. Mc Coy owned a small farm and a team, and foreseeing, as he thought, that they would soon be consumed in paying fines and costs, he could not in duty to his family and in harmony with his conscientious convictions of right and duty, allow all his property to go in that way; neither could he afford to lose a whole day every week. He therefore decided to abandon his farm, leaving it to satisfy the demands of the law against him in this case, and leave that country, hoping by this means to save at least his team and personal property. By the advice of Eld. Dan. T. Jones, and at his earnest request, Mr. Mc Coy returned to Hot Spring County at the time for his appearance, February, 1887, and confessed judgment under the indictment. A portion of the cost was remitted, and the fine and a portion of the cost were paid by Eld. Jones, and Mr. Mc Coy was released.

Mr. Mc Coy said to Eld. Jones, with tears in his eyes, that while he was reckless and wicked, he was not molested; but as soon as he turned and tried to live a religious life, he was indicted and fined for it.

FOURTH CASE.

J. L. Shockey, Malvern, Ark.

Mr. J. L. Shockey was a Seventh-day Adventist who moved from Ohio in 1884, and settled on a piece of railroad land six miles north of Malvern, the county seat of Hot Springs Co., Ark.

About the middle of April, 1885, Mr. Shockey was plowing in his field on Sunday, one and three quarters of a mile from any place of public worship, and entirely out of sight of any place of worship. He was observed by D. B. Sims and C. B. Fitzhugh. He was reported to the Grand Jury by Anthony Wallace, a member of the Baptist Church. Sims and Fitzhugh were summoned as witnesses by the Grand Jury. Mr. Sims was hunting stock when he saw Mr. Shockey at work on Sunday. The Grand Jury found a true bill. Mr. Shockey was arrested Sept. 14, 1885, and gave bond to the amount of \$110 for his appearance at the February term of the Circuit Court in the Seventh Judicial District, held at Malvern. On the 1st day of February, 1886, Mr. Shockey appeared before Judge J. B. Wood. In the meantime, the Scoles case had been appealed to the Supreme Court; and at the request of the judge, the prosecuting attorney consented to continue the case, to await the decision of the Supreme Court.

FIFTH CASE.

James M. Pool.

James M. Pool, a Seventh-day Adventist, was indicted for Sabbath-breaking, at the fall term of the Circuit Court held at Fayetteville, beginning the first Monday in September, 1885.

He waived his right to jury trial. The only witness in the case was J. W. Cooper. Cooper was a member of the Presbyterian Church, and professed sanctification. He

went to Pool's house on Sunday morning, to buy some tobacco, and found Pool hoeing in his garden ; so testified before the court, Judge Pittman presiding. The judge sustained the indictment, pronounced Pool guilty, and fined him one dollar and costs, amounting to \$30.90.

SIXTH CASE.

James A. Armstrong, Springdale, Ark.

Mr. J. A. Armstrong moved from Warren Co., Ind., to Springdale, Ark., in 1878. In September, 1884, he joined the Seventh-day Adventist church at Springdale. November, 1885, he was indicted by the Grand Jury for Sabbath-breaking. On the 13th of February, 1886, he was arrested by William Holcomb, deputy-sheriff for Washington County, and was held under bonds of \$250 for his appearance at the May term of the Circuit Court. The particular offense upon which the charge of Sabbath-breaking was based, was for digging potatoes in his field on Sunday. Millard Courtney was the prosecuting witness. Mr. Armstrong had a contract for building the school-house at Springdale. Mr. Courtney, with a friend, went to Armstrong's house on Sunday, to negotiate a contract for putting the tin roof on the school-house. From the house they went into the field where Mr. Armstrong was digging potatoes. There the business was all talked over, and the contract was secured for putting on the tin roof. Then this same Courtney became the prosecuting witness against Mr. Armstrong for working on Sunday.

On the first Monday in May, Mr. Armstrong appeared before Judge Pittman, Circuit Judge of the Fourth Judicial District, at Fayetteville ; and, waiving his right to jury trial, submitted his case to the Court for decision. Judge Pittman sustained the indictment. Fine and costs, amounting to \$26.50, were paid, and Mr. Armstrong was released.

SEVENTH CASE.

William L. Gentry.

Mr. Gentry had been a citizen of Arkansas since 1849. He had served as Justice of the Peace for eight years, and then refused to accept the office longer. He had served as Associate-Justice of the County Court for two years. He had been a Seventh-day Adventist since 1877,—a member of the Seventh-day Adventist church at Star of the West, Pike Co., Ark.

At the January term of the Circuit Court, in 1886, he was indicted by the Grand Jury for Sabbath-breaking, the particular offense being his plowing on his own farm, July 2, 1886. He was arrested by the deputy-sheriff, and held under \$500 bonds for his appearance at the July term of the Circuit Court. On the fourth Monday in July, Mr. Gentry appeared before Judge Herne, of the Eighth Judicial District. At his request, his case was continued, to await the decision of the Supreme Court in the Scoles case. In the month of January, 1887, his case was called for trial, as the Supreme Court had sustained the decision of the Circuit Court in the Scoles case. Mr. Gentry confessed judgment, but did not have the money to pay the fine and costs. Judge Herne ordered the defendant kept in custody until the fine and costs were paid. Mr. Gentry, having the confidence of the sheriff, was allowed the freedom of the town. On the last day of Court, the sheriff notified him that unless the fine and costs were paid, he would hire him out. The laws of Arkansas provide that in cases where the parties fail to satisfy the demands of the law, they shall be put up by the sheriff, and sold to the highest bidder, the bids being for the amount of wages to be paid per day. They are then worked under the same rules and regulations as convicts in the penitentiaries. Mr. Gentry was sixty-

five years old, and not wishing to submit to such barbarous treatment, paid two dollars, all the money he had, and gave his note for the remaining amount, \$26.80.

EIGHTH CASE.

Ples. A. Pannell, Star of the West, Ark.

Mr. Pannell, a Seventh-day Adventist, was indicted by the Grand Jury in January, 1886, for Sabbath-breaking, the particular offense charged being his plowing in his field on Sunday. He was arrested, and held under bonds of \$250 for his appearance. At his request, his case was laid over to await the decision of the Supreme Court in the Scoles case. At the January term, in 1887, that case having been decided adversely, he appeared, and confessed judgment. His fine and costs amounted to \$28.80; and not being able to pay, he was kept in jail four days, and then informed that unless some satisfactory arrangements were made, he would be sold, and would have to work out his fine and costs at seventy-five cents a day, the law not allowing the sheriff in such cases to accept less than that amount. Mr. Pannell paid two dollars in money, gave his note for \$26.80, and was released.

NINTH CASE.

J. L. James, Star of the West, Ark.

Mr. James, a Seventh-day Adventist, was indicted by the Grand Jury in January, 1886, for Sabbath-breaking. The particular offense was for doing carpenter work on Sunday. The indictment was founded on the testimony of Mr. Powers, a minister of the Missionary Baptist Church. Mr. James was working on a house for a widow, near the Hot Springs Railroad. The work was done without any expectation of receiving payment, and wholly as a charitable act for the poor widow, who was a member of the

Methodist Church. Mr. James worked in the rain to do it, because the widow was about to be thrown out of the house in which she lived, and had no place to shelter herself and family. Powers, the informer, lived about six hundred yards from where the work was done, and on that very Sunday had carried wood from within seven rods of where Mr. James was at work, and chopped up the wood in sight of Mr. James.

Mr. James was arrested, and gave the usual bond for his appearance in Court. He appeared before Judge Wood at the January term of the Circuit Court of 1886. His case, with others, was laid over to await the decision of the Supreme Court in the Scoles case. The first Monday in February, 1887, his case was called for trial. He confessed judgment; the regular fine and costs were assessed, and were paid by Eld. Dan. T. Jones, as the agent of Mr. James's brethren at large.

TENTH CASE.

Mr. Allen Meeks, the second time.

At the January term in 1886, Mr. Meeks was indicted the second time. July 13, he was arrested on a bench warrant in the hands of William LaFever. Meeks gave bonds for his appearance at the July term of Court. The offense was for fixing his wagon-brake on Sunday. He was reported to the Grand Jury by Riley Warren. Warren had gone to Meeks's house on the Sunday referred to in the indictment, to see Mr. Meeks about hiring a teacher for their public school, for both of them were members of the school board of their district. In the course of their conversation, Mr. Meeks incidentally mentioned having mended his wagon-brake that morning. This was reported to the Grand Jury by Mr. Warren, and the indictment followed.

At the July term, this, with other cases mentioned, was held over to await the decision of the Supreme Court in the Scoles case.

At the January term in 1887, Meeks's case was called. He confessed judgment; the usual fine and costs were assessed, paid by Meeks, and he was released.

ELEVENTH CASE.

John A. Meeks, Star of the West, Ark.

John A. Meeks, aged fourteen years, son of Edward L. Meeks, was indicted by the Grand Jury at the January term of the Circuit Court of 1886, for Sabbath-breaking. The offense was for shooting squirrels on Sunday. The place where the squirrels were shot was in a mountainous district entirely away from any public road, or any place of public worship. He was reported by a Mr. M. Reeves. The sons of Mr. Reeves were hauling wood with a team on that same Sunday, and were present with the Meeks boy in the woods, and scared the squirrels around the trees for the Meeks boy to shoot. When the sport was over, the Meeks boy divided the game with the Reeves boys.

Then the father of the Reeves boys reported the Meeks boy, and he was indicted. His case was held over to await the decision of the Supreme Court in the Scoles case. At the January term in 1887, the boy confessed judgment, and was fined \$5, and \$3 county tax was assessed, and the costs, amounting in all to \$22. The fine was paid, and the boy released.

TWELFTH CASE.

John Neusch, Magnet Cove, Ark.

Mr. Neusch is a fruit-raiser. On Sunday, June 21, 1885, he was gathering early peaches which were over-ripe, and were in danger of spoiling. He was half a

mile from any public road, and some distance from any place of public worship, and not in sight of either. The orchard was on the top of a mountain, and Mr. Neusch was not seen by any one except a brother and a Mr. Hudspeth. Mr. Hudspeth was with Mr. Neusch about one hour. He went to see him in behalf of a young man who had been working for him, and who, with others, had been caught stealing peaches from Mr. Neusch's orchard on the preceding Sunday. Mr. Hudspeth offered Mr. Neusch pay for the peaches, if he would not report the young man. Mr. Neusch both refused to accept the money, and promised to say nothing about the offense, on condition that it should not be repeated.

February, 1886, Mr. Neusch was indicted for this offense of working on Sunday, as related. Neusch, having been advised that there was most probably an indictment filed against him, went to the county clerk and made inquiry in regard to the matter. The clerk handed him a writ for his arrest, and Neusch took it to the sheriff, and gave bond for his appearance at Court. In August, his case was laid over to await the decision of the Supreme Court in the Scoles case. As soon as that decision had been rendered, Neusch went and confessed judgment, and paid the fine and costs, amounting to \$25. Mr. Neusch was an observer of the seventh day.

THIRTEENTH CASE.

F. N. Elmore, Springdale, Ark.

Mr. F. N. Elmore was indicted at the March term of the Circuit Court of 1886, on the charge of Sabbath-breaking. The indictment charged him with violating the Sunday laws by working on Sunday, Nov. 1, 1885. Mr. Elmore was arrested in April, 1886, by Deputy-Sheriff Wm. Holcomb, and was held in \$250 bail for his appearance in the May term of the Circuit Court. On the 4th of

May, Mr. Elmore appeared before Judge Pittman, and waiving his right to jury trial, submitted his case to the Court for decision. Millard Courtney was the only witness examined. He testified that he had seen Mr. Elmore digging potatoes on the day above referred to, on the premises of Mr. J. A. Armstrong. This work was done by Elmore on the day when Courtney took his friend to Armstrong to secure the contract for putting the tin roofing on the school-house; and that is how Courtney knew Elmore had worked on that day. Elmore was convicted. The fine and costs were \$28.95, which was paid, and he was released. Mr. Elmore was a Seventh-day Adventist.

FOURTEENTH CASE.

William H. Fritz, Hindsville, Madison Co., Ark.

Mr. Fritz was indicted at the April term of the Circuit Court in 1886, for Sabbath-breaking, and held under \$250 bonds for his appearance at the September term, at Huntsville. Mr. Fritz is a wood-workman, and the offense charged was for working in the shop on Sunday. The shop was in the country, and two hundred yards from the public road. The indictment was sustained. The defendant was fined one dollar and costs, amounting to \$28. Mr. Fritz was a Seventh-day Adventist.

FIFTEENTH CASE.

Z. Swearingen.

Mr. Z. Swearingen was a member of the church of Seventh-day Adventists. Went from Michigan to Arkansas in 1879, and settled on a small farm eleven miles south of Bentonville, the county seat of Benton County. He and his son Franz, aged seventeen years, were indicted by the Grand Jury at the April term of the Circuit Court of 1886, upon the charge of Sabbath-breaking by "performing

labor other than customary household duties of daily comfort, necessity, or charity, against the peace and dignity of the State of Arkansas, on Feb. 14, 1885," the same day being Sunday.

Both were arrested by F. P. Galbraith, sheriff of Benton County, in May, 1886, and were put under bond of \$250 for their appearance at the fall term of the Circuit Court. Sept. 27, 1886, the defendants appeared before Judge Pittman, of the Fourth Judicial District.

John G. Cowen, witness for the State, testified that he saw Mr. Swearingen and his son hauling rails on Sunday, the 14th day of February, 1885, as he returned from the funeral of Mrs. Boggett. Hon. J. W. Walker, attorney for the defendants, explained to the jury that the defendants conscientiously observed the seventh day of the week as the Sabbath, in accordance with the faith and practice of the church of which they were members. The prosecuting attorney stated to the jury that it was "one of those Advent cases." Jury found the defendants guilty, as charged in the indictment. As Mr. Swearingen did not have the money to pay the fine and costs for himself and son, amounting to \$34.20, they were sent to jail until the money should be secured.

They were put in jail Oct. 1, 1886. On the 13th of the same month, the sheriff levied on, and took possession of, a horse belonging to Mr. Swearingen. The horse sold at sheriff's sale, the 25th of the same month, for \$26.50, leaving a balance against Mr. Swearingen of \$7.70; yet both he and his son were released the same day that the horse was sold. On the 15th day of December, the sheriff appeared again on the premises of Mr. Swearingen, and presented a bill for \$28.95. Of this sum, \$21.25 was for the board of Mr. Swearingen and son while in jail, and \$7.70, balance on the fine. Mr. Swearingen had no money to pay the bill. The sheriff levied on his mare, har-

ness, wagon, and a cow and calf. Before the day of the sale, however, Mr. Swearingen's brethren raised the money by donations, paid the bill, and secured the release of his property. One thing about this case is to be noted particularly: The witness upon whose testimony these people were convicted, said that he saw them hauling rails on Sunday, the 14th day of February, as he returned from the funeral of Mrs. Boggett. Now, the act under which this prosecution was carried on, became a law March 3, and was approved by the Governor, March 7. Consequently, they were convicted for work done seventeen days before the act was passed under which they were convicted.

SIXTEENTH CASE.

I. L. Benson.

Mr. Benson was not at that time a member of any church, made no pretensions to religious faith, and did not observe any day. He had the contract for painting the railroad bridge across the Arkansas River at Van Buren, Ark. He worked a set of hands on the bridge all days of the week, Sundays included. In May, 1886, Mr. Benson and one of his men were arrested on the charge of Sabbath-breaking. They were taken to Fort Smith, and arraigned before a Justice of the Peace. The Justice did not put them through any form of trial, nor even ask them whether they were guilty or not guilty, but read a section of the law to them, and told them he would make the fine as light as possible, amounting, with costs, to \$4.75 each. They refused to pay the fines, and were placed in custody of the sheriff. The sheriff gave them the freedom of the place, only requiring them to appear at the Justice's office at a certain hour. Mr. Benson telegraphed to the general manager of the railroad in regard to the matter. The general manager telegraphed to his attorney in that city, to attend to the cases.

Mr. Benson and his men appeared before the Justice for a hearing in their cases. It was granted, with some reluctance. The attorney, Mr. Bryolair, told the Justice it was a shame to arrest men for working on the bridge at the risk of their lives to support their families, when the public work in their own town was principally done on Sunday. A hearing was granted, and the trial set for the next day.

They were not placed under any bonds at all, but were allowed to go on their own recognizance. The following day, a jury was impaneled and the trial begun. The deputy-sheriff was the leading witness, and swore positively that he saw them at work on Sunday. The jury brought in a verdict to the effect that they had "*agreed to disagree*." This was on Wednesday. The following Monday was set for a new trial. No bond was even at this time required. The defendants appeared at the time appointed, and plead not guilty. The Justice, after giving them a brief lecture, dismissed the case.

Since that time Mr. Benson has become a Seventh-day Adventist, and perhaps would not have fared so easily had he been a Seventh-day Adventist when he was indicted.

SEVENTEENTH CASE.

James A. Armstrong, the second time.

On the 9th of July, 1886, Mr. Armstrong was arrested the second time, by A. M. Dritt, marshal of Springdale, for working on Sunday, June 27, and taken before the mayor, S. L. Staples. When brought before the mayor, Mr. Armstrong called for the affidavit on which the writ was issued. The mayor stated that he himself had seen Mr. Armstrong at work in his garden on Sunday, and that Mr. A. J. Vaughn had called his attention to Armstrong

while he was at work, and had said : "Now, see that you do your duty." This made an affidavit unnecessary. The case was tried before the mayor, acting as Justice of the Peace. A. J. Vaughn was the first witness.

Justice of the Peace. — "What do you know about Mr. Armstrong's working on Sunday, June 27?"

Vaughn. — "I did not see Armstrong at all that day ; I only heard he was at work."

J. I. Gladden was the next witness called.

Justice. — "What do you know about Mr. Armstrong's working on Sunday, June 27?"

Gladden. — "While at the depot, I saw some one at work hoeing in Mr. Armstrong's garden ; but I do not know for certain who it was."

Millard Courtney was the next witness called.

Justice. — "Tell us what you know about Mr. Armstrong's working on the Sunday in question."

Courtney. — "While on the platform of the depot, I saw some one hoeing in Mr. Armstrong's garden. I am not positive who it was."

Having failed to prove anything from the witnesses regularly summoned, the case was "rested" while the marshal was sent out to find somebody else. He brought in Gideon Bowman, who was then questioned as follows :—

Justice. — "Do you know anything about Mr. Armstrong's doing work other than customary household duties of daily necessity, comfort, or charity on the Christian Sabbath, June 27?"

Bowman. — "I do."

J. — "State what you saw."

B. — "As I came into town, having been out east, in passing Mr. Armstrong's house, I saw him hoeing in the garden."

J. — "Did you recognize this person to be J. A. Armstrong?"

B. — "I did."

Here the prosecution rested the case, and Eld. J. G. Wood assumed the cross-examination in behalf of the prisoner.

Wood. — "Mr. Bowman, you say you were coming along the road from the east when you saw Mr. Armstrong at work in his garden?"

B. — "I did."

W. — "Were you coming to town?"

B. — "I was."

W. — "About how long were you in passing Mr. Armstrong's house? and what was the length of time you saw him at work?"

B. — "I can't tell."

W. — "Do you think the time to have been two minutes, or more?"

B. — "Don't know; can't tell."

W. — "Could it possibly have exceeded one minute?"

B. — "I don't know. It makes no difference. I am not here to be pumped."

W. — "Mr. Bowman, we are only wanting the facts in the case. Are you sure it was Mr. Armstrong you saw hoeing? Might it not have been some other man?"

B. — "I am not mistaken. I know it was J. A. Armstrong."

W. — "What was he doing?"

B. — "I told you he was hoeing."

W. — "What was he hoeing? Was he hoeing corn, or hoeing out some potatoes for his dinner?"

B. — "He was hoeing; that is enough."

At this point the Justice of the Peace interfered: —

"It seems, Mr. Wood, that you are trying to make it appear that Mr. Armstrong was only digging a mess of potatoes for his dinner. If that is so, and he was doing a work of comfort, necessity, or charity, he can prove it."

W. — "If your honor please, Mr. Armstrong is not here to prove a negative. The law allows him to do such work as is of necessity, comfort, or charity; and until it is clearly proven that he has violated this law, which thus far has not been proven, it is unnecessary for him to offer proof. A man stands innocent until he is proven guilty."

Justice. — "We proceed."

W. — "Mr. Bowman, you say you were in the road when you saw Mr. Armstrong?"

B. — "Yes."

W. — "Do you remember whether there was a fence between you and Mr. Armstrong?"

B. — "Yes; there was."

W. — "About what is the height of that fence?"

B. — "Do n't know."

W. — "Was it a board fence five boards high?"

B. — "Can't say."

W. — "Was there a second fence between the road and the garden, beyond the house and lot?"

B. — "I think there was."

W. — "Was that second fence a board fence or a very high picket fence?"

B. — "I don't know, nor do n't care. It makes no difference."

W. — "I understand, then, that you don't know. Well, Mr. Bowman, what time in the day did you see Mr. Armstrong in the garden?"

B. — "In the afternoon."

W. — "About what time in the afternoon, — was it one or two o'clock, or later?"

B. — "It makes no difference. I am not here to be pumped. If you want to pump me any more, just come out on the street with me."

W. — "Sir, I have no desire to pump anything but truth from you, and only wish to know the facts in this case. Was it about one or two o'clock in the afternoon, or about four or five? Please tell us about the time of day."

B. — "It was between twelve noon and sunset. That is near enough."

This closed the testimony in the case. Mr. Armstrong was declared guilty, and fined one dollar and costs, the whole amounting to \$4.65. In default of the payment of his fine, the mayor, acting as Justice of the Peace, told him he would send him to the county jail, and allow him a dollar a day until the fine and costs were paid.

The marshal went at once to the livery-stable to get a rig, and within four hours from the time of his arrest, Mr. Armstrong, in charge of the marshal, was on his way to jail at Fayetteville. He was locked up with another prisoner, with nothing but a little straw, and a dirty blanket about thirty inches wide, for a bed for both. The next night, he was allowed to lie in the corridor on the brick floor, with his alpaca coat for a bed, and his Bible for a pillow. The third night, a friend in town furnished him a quilt and a pillow. On the fourth night, his friend brought him another quilt, and thus he was made quite comfortable. On the fifth day, at noon, he was released.

When Mr. Armstrong returned to Springdale, the mayor notified him that his fine and costs were not satisfied, and that unless they were paid in ten days, an execution would be issued, and his property sold. Mr. Armstrong filed an appeal to the Circuit Court, and the appeal was sustained, and he was released from further penalty.

EIGHTEENTH CASE.

J. L. Munson, Star of the West, Ark.

Mr. Munson, a Seventh-day Adventist, was indicted by the Grand Jury at the July term of the Circuit Court of 1886, for working on a Sunday in March, 1886. Mr. Munson was cutting briars out of his fence corner at the back of his field, one fourth of a mile from any public road, and one and one half miles from any place of public worship. He was indicted on the voluntary evidence of Jeff. O'Neal, a Free-will Baptist preacher. He was arrested Nov. 3, 1886, and held under bonds of \$300 for his appearance January, 1887. He confessed judgment, and Judge Herne assessed the legal fine of one dollar, with three dollars county tax, and costs, amounting to \$14.20. This was paid by Mr. Munson, and he was released.

NINETEENTH CASE.

James M. Pool, the second time.

Mr. Pool was indicted the second time at the September term of Court in 1886, and was held under bonds of \$250 for his appearance May 16, 1887. The act under which these prosecutions were conducted, was repealed before the date of trial. Pool was tried under the indictment, and fined one dollar and costs, amounting to \$28.40.

TWENTIETH CASE.

J. L. Shockey, the second time.

In August, 1886, Mr. P. Hammond, a member of the Baptist Church, appeared before the Grand Jury in Hot Spring County, and charged J. L. Shockey with hauling rails and clearing land on Sunday, the first day of the week, July 11, 1886. The Grand Jury presented an indictment. On Dec. 14, 1886, Mr. Shockey was arrested and taken to Malvern, locked up until the next day, when he gave the usual bond for his appearance at Court, and was released. The work for which Mr. Shockey was indicted, was done on a new farm which he was opening up in the woods, three fourths of a mile from any public road, and more than a mile from any place of public worship, and not in sight of either. The witness, Mr. Hammond, passed by where Mr. Shockey was at work, and after he had gone some distance, returned, and spoke to Mr. Shockey about buying from him a Plymouth Rock rooster. The bargain was then made, Hammond agreeing to pay Shockey fifty cents for the rooster.

Shockey was indicted, and his case set for trial Feb. 7, 1887. This case, with the one before mentioned and some others that had been held over to await the decision in the Scoles case, was called, and February 11 fixed as the day of trial for all.

In the meantime, Eld. Dan. T. Jones, president of the Missouri Conference of Seventh-day Adventists, had an interview with the prosecuting attorney, Mr. J. P. Henderson, and explained the nature of all these cases, and showed him that the Adventists were faithful, law-abiding citizens in every respect, except in this matter of working on Sunday; that the defendants in the cases were all poor men, some of whom were utterly unable to pay any fines and costs, and consequently would have to go to jail; and asked Mr. Henderson if he would be willing to remit a portion of his fees, which were ten dollars in each case, provided the remainder was raised by donations by the Seventh-day Adventists throughout the country, for the relief of their brethren in Arkansas.

Mr. Henderson replied that if these cases were of the nature of religious persecution, he would not feel justified in taking any fees. He said he would not be a party to any such action, but would want some time to investigate the cases, to satisfy himself that this was true. Upon investigation, he became fully satisfied that the prosecutions were simply of the nature of religious persecutions, and generously refused to take any fees in any of the cases.

When the cases were called, the defendants confessed judgment, and the fine prescribed by law was assessed. The county clerk reduced his fees about one half; the sheriff, one half of his; and the prosecuting attorney, all of his, which reduced the total expenses about one half. The remainder was advanced from funds supplied by Seventh-day Adventists throughout the country, for the relief of their brethren in Arkansas.

TWENTY-FIRST CASE.

Alexander Holt, Magnet Cove, Ark.

Mr. Holt, a Seventh-day Adventist, was a medical student of the Memphis Hospital and Medical College, Memphis, Tenn.

In 1885 he was working on a farm in the northern part of Hot Spring Co., Ark. At the February term of the Circuit Court in 1886, he was indicted for Sabbath-breaking. The particular charge was working on Sunday, Oct. 11, 1885.

C. C. Kaufman was the informer. Mr. Holt had worked one Sunday near a public road, but not nearer than a mile to any place of public worship. Hearing that there had been an indictment found against him, Mr. Holt did not wait for the sheriff to come for his arrest, but went to the county seat, ten miles distant, taking a bondsman with him, and inquired of the proper officer if there was an indictment against him. The warrant for his arrest was then read to him by the deputy-sheriff. Holt gave bonds to appear at the August term of the Circuit Court, and was released.

At the August term of Court, the case was laid over to await the decision of the Supreme Court in the Scoles case. February, 1887, Holt's case was called for trial at Malvern. The Supreme Court having decided adversely, Holt confessed judgment, and paid the fine and costs, amounting to \$28.

There were a number of other cases, but they are all of the same kind,—causeless arrests upon information treacherously obtained to vent religious spite.

In January, 1887, a bill was introduced by Senator R. H. Crockett, restoring the protective clause to observers of the seventh day. But two men voted against the bill in the Senate, and both these were preachers. One of them, a member from Pike County, was acquainted with many who observed the seventh day, several of whom were at that time under bonds. In private conversation, he confessed that they were all excellent people and law-abiding citizens. When the vote was taken by roll-call, he asked to explain his vote, and the following note of explanation was sent to the clerk:—

"MR. PRESIDENT: I desire to explain my vote. Believing as I do that the Christian Sabbath should be observed as a day of worship, losing sight of this is to impede the progress of Christianity. J. P. COPELAND."

The vote was a verbal and emphatic "No."

The restoration of this protective section was strenuously opposed by the religious leaders. The editor of the *Arkansas Methodist* declared in his paper at the time, that "the Sabbath laws" as they were, without the protective section, had "worked well enough," and were "about as near perfect as we can expect to get them, under the present Constitution."

There are some points in these cases that deserve a word of comment:—

First, with two exceptions, all the arrests and prosecutions were of people who observed the seventh day of the week as the Sabbath. And in these two exceptions, those who were held for trial were held without bail,—simply on their own recognizance,—and the cases both dismissed; while in every case of a Seventh-day Adventist, the least bail that was accepted was \$110; the most of them were held under bonds for \$250, and some for as high as \$500. There was not a single case dismissed, and in all the cases there never was a complaint made of that which was done having disturbed the worship or the rest of any one. But the indictments were all for the crime of "Sabbath-breaking" by the performance of labor on Sunday. If there had been arrests of other people for working on Sunday, in anything like the numbers that there were of seventh-day observers, and the law had been enforced upon all alike, then the iniquity would not have been so apparent; or if those who were not seventh-day observers, and who were arrested, had been convicted, even then the case would not have been so clearly one of persecution. But when in all the record of the whole

two years' existence of the law in this form, there was not a solitary saloon-keeper arrested, there was not a person who did not observe the seventh day arrested, with the two exceptions named, then there could be no clearer demonstration that the law was used only as a means to vent religious spite against a class of citizens guiltless of any crime, but only of professing a religion different from that of the majority. Nothing could be more clearly demonstrated than is this: that the only effect of the repeal of that exemption clause was to give power to a set of bigots to oppress those whose religion they hated. If anything was needed to make the demonstration more clear, it is found in the method of the prosecutions.

Mr. Swearingen was convicted upon the testimony of a witness who swore that the work for which he was convicted was done on a day which proved to be *seventeen days before the law was enacted*, thus by its enforcement making the law *ex post facto*. The Constitution of the United States forbids the making of *ex post facto* laws. But when a law not being *ex post facto* in itself, is made so by its enforcement, it is time that something was being done to enlighten courts and juries upon that subject, even though it should be by an amendment to the Constitution of the United States, providing that no law not being *ex post facto* in itself shall be made so by its enforcement. Then, on the other hand, several cases were tried and the men convicted and fined *after the law was repealed*, but for work done before.

Second, in almost every case the informer or the prosecuting witness, or perhaps both, was a man who was doing work or business on the same day, and sometimes with the very persons accused; yet the man who kept the seventh day was convicted in every instance, while the man who did not keep the seventh day, but did work or business with the man who was prosecuted, was

left entirely unmolested, and his evidence was accepted in Court to convict the other man. For instance, Millard Courtney, the one who was the prosecuting witness against both Armstrong and Elmore, took a man with him to where these men were working, and there made a contract for roofing a school-house; and yet this man's evidence convicted these two men of Sabbath-breaking at the very time at which he was doing business with them.

Third, J. L. Shockey was convicted of Sabbath-breaking upon the testimony of Hammond, who went where he was at work, and bought of him a Plymouth Rock rooster.

Fourth, J. L. James, who worked in the rain for nothing, that a poor widow might be sheltered, was convicted of Sabbath-breaking upon the evidence of a man who carried wood and chopped it up within seven rods of the man who was convicted by his testimony.

Fifth, La Fever and his wife went to Allen Meeks's house on Sunday to visit. They found Meeks planting potatoes. Meeks stopped planting potatoes, and spent the rest of the day visiting with them; and yet Meeks was convicted and fined upon the evidence of La Fever.

Sixth, the second case of this same Meeks. Riley Warren went to his house on Sunday, to see him about hiring a teacher for the public school. In the social, neighborly conversation that passed between them, Meeks incidentally mentioned that he had mended his wagon-brake that morning; and yet he was convicted of Sabbath-breaking by the evidence of that same Riley Warren. And further, Meeks was thus virtually compelled to be a witness against himself,—clearly another violation of both the State and the United States Constitution.

Seventh, Mr. Reeves's boys were hauling wood on Sunday. In the timber where they got the wood, they met another boy, John A. Meeks, hunting squirrels. They joined him in the hunt, scaring the squirrels around

the trees so he could shoot them. Then the squirrels were divided between the Meeks boy and the Reeves boys. Then the Meeks boy was indicted, prosecuted, and convicted of Sabbath-breaking upon the evidence of the father of those boys who were hauling wood, and who helped to kill the squirrels.

Eighth, James M. Pool, for hoeing in his garden on Sunday, was convicted of Sabbath-breaking, on the evidence of a "sanctified" church-member who had gone to Pool's house on Sunday to buy tobacco.

Thus throughout this whole list of cases, people who were performing honest labor on their own premises in a way in which it was impossible to do harm to any soul on earth, were indicted, prosecuted, and convicted upon the evidence of men who, if there were any wrong involved in the case at all, were more guilty than they. If religious persecution could possibly be more clearly demonstrated than it is in this thing, we hope never to see an illustration of it.

Yet further: Take the methods of prosecution. In the case of Scoles, J. A. Armstrong was called before the Grand Jury. After repeated answers to questions in regard to Sunday work by different parties in several different lines of business and traffic, he was asked the direct question whether he knew of any Seventh-day Adventists who worked on Sunday, and when in the nature of the case he answered in the affirmative, every one of the Seventh-day Adventists whom he named was indicted, and not one of any other class or trade. And in the second case of James A. Armstrong; although, when asked for the affidavit upon which Armstrong was arrested, the mayor said that A. J. Vaughn had called his attention to Armstrong's working, and had said, "Now see that you do your duty," yet Vaughn testified under oath that he did not see Armstrong at all on the day referred to.

Armstrong was arrested at the instance of the mayor, and tried before the mayor, who acted as Justice of the Peace. This made the mayor, virtually, both prosecuting witness and judge ; and the questions which he asked show that that was precisely his position, and his own view of the case. The question which he asked to each of the first two witnesses was, "What do you know about Mr. Armstrong's working on Sunday, June 27?" This question assumes all that was expected to be proved on the trial. And then when the only witness whose word seemed to confirm the judge's view of the case, was cross-questioned, the judge came to the rescue with the excellent piece of legal wisdom, to the effect that if the prisoner was innocent, he could prove it.

Nor did the unjust proceeding stop here. The Supreme Court confirmed the convictions secured by these iniquitous proceedings, and they confirmed it under a Constitution which declares, —

"All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences ; no man can of right be compelled to attend, erect, or support any place of worship, or to maintain any ministry against his consent. No human authority can, in any case or manner whatsoever, control or interfere with the right of conscience ; and no preference shall ever be given by law to any religious establishment, denomination, or mode of worship, above any other."

The concluding portion of the decision reads as follows : —

"The appellant's argument, then, is reduced to this : That because he conscientiously believes he is permitted by the law of God to labor on Sunday, he may violate with impunity the statute declaring it illegal to do so ; but a man's religious belief cannot be accepted as a justification for his committing an overt act made criminal by the law of the land. If the law operates harshly,

as laws sometimes do, the remedy is in the hands of the legislature. It is not the province of the judiciary to pass upon the wisdom or policy of legislation. That is for the members of the legislative department; and the only appeal from their determination is to the constituency."

This decision of the Supreme Court is of the same piece with the prosecutions and judicial processes throughout. It gives to the legislature all the omnipotence of the British Parliament, and in that does away with all necessity for a Constitution. The decision on this principle alone is un-American. No legislative power in this country is framed upon the model of the British Parliament in respect to power. In this country, the powers of every legislature are defined and limited by Constitutions. It is the prerogative of Supreme Courts to define the meaning of the Constitution, and to decide whether an act of the legislature is Constitutional or not. If the act is Constitutional, then it must stand, whatever the results may be. And the Supreme Court is the body by which the Constitutionality or the unconstitutionality of any statute is to be discovered. But if, as this decision declares, the legislature is omnipotent, and that which it does must stand as law, then there is no use for a Constitution. "One of the objects for which the judiciary department is established, is the protection of the Constitutional rights of the citizens."

So long as there is a Constitution above the legislature, which defines and limits its powers, and protects and guards the rights of the citizens, so long it is the province of the Supreme Court to pronounce upon the acts of the legislature. The Supreme Court of Arkansas, therefore, in this case, clearly abdicated one of the very functions for which it was created, or else subverted the Constitution of Arkansas; and in either case, bestowed upon the legislature the omnipotence of the British Parliament,

which is contrary to every principle of American institutions. Nor is the State of Arkansas an exception in this case, for this is the usual procedure of Supreme Courts in sustaining Sunday laws. They cannot be sustained upon any American principle ; resort has to be made in every instance, and has been with scarcely an exception, either to the church-and-State principles of the British Government, or to the British principle of the omnipotence of the legislative power. But American principles are far above and far in advance of the principles of the British Government, in that they recognize Constitutional limitations upon the legislative power, and countenance no union of church and State ; consequently, Sunday laws never have been, and never can be, sustained upon American principles.

That this indictment of the Supreme Court of Arkansas is not unjust, we have the clearest proof. The three judges who then composed the Supreme Court, were all members of the Bar Association of the State of Arkansas. In less than three months after this decision was rendered, the Bar Association unanimously made a report to the State on "law and law reform," an official copy of which we have in our possession. In that report, under the heading "Sunday Laws," is the following :—

"Our statute as it stands in Mansfield's Digest, provides that 'persons who are members of any religious society who observe as Sabbath any other day of the week than the Christian Sabbath, or Sunday, shall not be subject to the penalties of this act (the Sunday law), so that they observe one day in seven, agreeably to the faith and practice of their church or society.'—*Mans. Dig.*, sec. 1886.

"This statute had been in force from the time of the organization of the State government ; but it was unfortunately repealed by act of March 3, 1885.—*Acts 1885*, p. 37.

"While the Jews adhere, of course, to the letter of the original command to remember the seventh day of the week, there is also in the State a small but respectable body of Christians who consistently believe that the seventh day is the proper day to be kept sacred ; and in the case of *Scoles vs. State*, our Supreme Court was compelled to affirm a judgment against a member of one of these churches, for worshipping God according to the dictates of his own conscience, supported, as he supposed, by good theological arguments. It is very evident that the system now in force, savoring as it does very much of religious persecution, is a relic of the Middle Ages, when it was thought that men could be made orthodox by an act of parliament. Even in Massachusetts, where Sabbatarian laws have always been enforced with unusual vigor, exceptions are made in favor of persons who religiously observe any other day in the place of Sunday. We think that the law as it stood in Mansfield's Digest, should be restored, with such an amendment as would prevent the sale of spirits on Sunday, as that was probably the object of repealing the above section."

Now the Arkansas Constitution says, "All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences." This report of the Bar Association says, "in the case of *Scoles vs. State*, our Supreme Court was compelled to affirm a judgment against a member of one of these churches, for worshipping God according to the dictates of his own conscience."

The members of the Supreme Court being members of the Bar Association, in that report it is confessed that they confirmed a judgment against a man for doing that which the Constitution explicitly declares all men have a natural and indefeasible right to do. By this, therefore, it is demonstrated that the men who composed the Supreme Court of Arkansas in 1885, plainly ignored the first principles of Constitutional law, as well as the express provisions of the Constitution which they were sworn to uphold.

Just one more consideration, and we are done for this time. The form of indictment in all these cases, was the same as that printed on page 115.

Thus the State of Arkansas declared that for a man to work quietly and peaceably on his own premises on Sunday, digging potatoes, picking peaches, plowing, etc., is against the *peace* and *dignity* of the State of Arkansas. This relegates honest occupations to the realm of crime, peaceable employment to the realm of disorder, and puts a premium upon idleness and recklessness. When any State or body of people declares it to be against the dignity of that State or people for a man to follow any honest occupation on his own premises on any day, then we think the less dignity of that kind possessed, the better it will be for all concerned. And when such things are considered as offenses against the peace of any State or community, that State or community must be composed of most exceedingly irritable people.

The fact of the matter is,—and the whole history of these proceedings proves it,—from beginning to end these prosecutions were only the manifestation of that persecuting, intolerant spirit that will always make itself felt when any class of religionists can control the civil power. The information upon which the indictments were found, was treacherously given, and in the very spirit of the Inquisition. The indictment itself is a travesty of legal form, and a libel upon justice. The principle was more worthy of the Dark Ages than of any civilized nation or modern time; and the Supreme Court decision that confirmed the convictions, rendered by judges who stultified themselves within three months, is one which, as we have shown, is contrary to the first principles of Constitutional law or Constitutional compacts. Nor is it certain that Arkansas was worse in these respects than any other State would be under like circumstances. Religious big-

ots in Arkansas are no worse than they would be in any other State ; and if Congress should lend its sanction to religious legislation to the extent of passing any such law as the Blair Sunday bill embodies, and then its principles should be made of force in all the States, the history of Arkansas from 1885 to 1887 would be repeated throughout the whole extent of the nation.

In none of these cases have we given names with the intent of casting reflection upon any persons, except the "informers," but only that those who read the account may have opportunity to verify the facts, if they choose. But in the matter of the Supreme Court, our discussion of that decision is an intentional stricture, for the reasons given. Yet we do not mean by so doing, to place the judges mentioned in any more unenviable light than that in which the Supreme Courts of New York, Pennsylvania, and other States stand. The principles of their decision have their precedent in the decisions of these other States, and were embodied in a dissenting opinion of one man who is now an Associate-Justice of the United States Supreme Court, given when he was a member of a State Supreme Court.

April 10, 1858, the legislature of California passed "An act to provide for the better observance of the Sabbath." The Constitution of California declares that "the free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this State." A Jew by the name of Newman was convicted of selling goods on Sunday in Sacramento. Upon his imprisonment, his case was brought before the Supreme Court on a writ of *habeas corpus*, on the ground of the illegality of his imprisonment, because of the act's being unconstitutional. The majority of the Supreme Court,—Judge Terry and Judge Burnett,—sustained the plea by decisions separately written, whose soundness, both upon Constitutional principles and upon

the abstract principle of justice itself, can never be successfully controverted. Stephen J. Field, who is now Associate-Justice of the Supreme Court of the United States, was then the third member of the Supreme Court of California. He rendered a dissenting opinion, taking the identical position of the Arkansas Supreme Court as to the omnipotence of the legislature, and soberly maintaining that the term "Christian Sabbath," used in the act, was not a discrimination or preference in favor of any religious profession or worship.

The principles of this dissenting opinion, as of the decision of the Supreme Court of Arkansas, are wholly wrong, and spring from the principles of church and State, and of the supremacy of the parliament of the British Government, and are totally subversive of American principles.

Yet, we repeat, Sunday laws have never been, and never can be, sustained on any other principles; which is only to say: There is no foundation in justice or in right for any Sunday laws, or Sabbath laws, or Lord's day laws, under any government on this earth.

CONGRESSIONAL REPORT—TRANSPORTATION OF THE MAIL ON THE SABBATH.

As a fitting close to our discussion of this subject, we insert a portion of the report of a United States Senate committee on the same subject, sixty years ago—session of 1828–29. The arguments are unanswerable; and the principles stated are just now worthy of the most earnest consideration of every American citizen:—

"The Senate proceeded to the consideration of the following report and resolution, presented by Mr. Johnson, with which the Senate concurred:—

"The committee to whom were referred the several petitions on the subject of mails on the Sabbath, or first day of the week, report,—

“That some respite is required from the ordinary vocations of life, is an established principle, sanctioned by the usages of all nations, whether Christian or pagan. One day in seven has also been determined upon as the proportion of time; and in conformity with the wishes of a great majority of the citizens of this country, the first day of the week, commonly called Sunday, has been set apart to that object. The principle has received the sanction of the national legislature, so far as to admit a suspension of all public business on that day, except in cases of absolute necessity, or of great public utility. This principle the committee would not wish to disturb. If kept within its legitimate sphere of action, no injury can result from its observance. It should, however, be kept in mind that *the proper object of government is to protect all persons in the enjoyment of their religious as well as civil rights, and not to determine for any whether they shall esteem one day above another, or esteem all days alike holy.*

“We are aware that a variety of sentiment exists among the good citizens of this nation, on the subject of the Sabbath day; and our Government is designed for the protection of one as much as another. The Jews, who in this country are as free as Christians, and entitled to the same protection from the laws, derive their obligation to keep the Sabbath day from the fourth commandment of their decalogue, and in conformity with that injunction, pay religious homage to the seventh day of the week, which we call Saturday. One denomination of Christians among us, justly celebrated for their piety, and certainly as good citizens as any other class, agree with the Jews in the moral obligation of the Sabbath, and observe the same day. . . . The Jewish Government was a theocracy, which enforced religious observances; and though the committee would hope that no portion of the citizens of our country would willingly introduce a system of religious coercion in our civil institutions, the example of other nations should admonish us to watch carefully against its earliest indication. With these different religious views, the committee are of opinion that Congress cannot interfere. *It is not the legitimate province of the legislature to determine what religion is true, or what false.*

“*Our Government is a civil, and not a religious, institution.* Our Constitution recognizes in every person the right to choose his own religion, and to enjoy it freely, without molestation. Whatever may be the religious sentiments of citizens, and however variant, they are alike entitled to protection from the Government, so long as they do not invade the rights of others. The transportation of the mail on the first day of the week, it is believed, does not interfere with the rights of conscience. *The petitioners for its discontinuance appear to be actuated by a religious zeal which may be commendable if confined to its proper sphere; but they assume a position better suited to an ecclesiastical than to a civil institution.* They appear in many instances to lay it down as an axiom, that the practice is a violation of the law of God. Should Congress in legislative capacity adopt the sentiment, it would establish the principle that the legislature is a proper tribunal to determine what are the laws of God. It would involve a legislative decision on a religious controversy, and on a point in which good citizens may honestly differ in opinion, without disturbing the peace of society or endangering its liberties. If this principle is once introduced, it will be impossible to define its bounds.

“*Among all the religious persecutions with which almost every page of modern history is stained, no victim ever suffered but for the violation of what government denominated the law of God.* To prevent a similar train of evils in this country, the Constitution has wisely withheld from our Government the power of defining the divine law. It is a right reserved to each citizen; and while he respects the rights of others, he cannot be held amenable to any human tribunal for his conclusions. *Extensive religious combinations to effect a political object, are, in the opinion of the committee, always dangerous.* This first effort of the kind calls for the establishment of a principle, which, in the opinion of the committee, would lay the foundation for dangerous innovations upon the spirit of the Constitution, and upon the religious rights of the citizens. *If admitted, it may be justly apprehended that the future measures of the Government will be strongly marked, if not eventually controlled, by the same influence. All religious despotism commences by combination and influence,*

and when that influence begins to operate upon the political institutions of a country, the civil power soon bends under it; and the catastrophe of other nations furnishes an awful warning of the consequence.

“While the mail is transported on Saturday, the Jew and the Sabbatarian may abstain from any agency in carrying it, on conscientious scruples. While it is transported on the first day of the week, another class may abstain, from the same religious scruples. The obligation of Government is the same on both these classes; and the committee can discover no principle on which the claims of one should be more respected than those of the other, *unless it be admitted that the consciences of the minority are less sacred than those of the majority.*

“If the observance of a holy day becomes incorporated in our institutions, shall we not forbid the movement of an army, prohibit an assault in time of war, and lay an injunction upon our naval officers to lie in the wind while upon the ocean on that day? Consistency would seem to require it. Nor is it certain that we should stop here. *If the principle is once established that religion, or religious observances, shall be interwoven with our legislative acts, we must pursue it to its ultimatum.* We shall, if consistent, provide for the erection of edifices for worship of the Creator, and for the support of Christian ministers, if we believe such measures will promote the interests of Christianity.* It is the settled conviction of the committee, that the only method of avoiding these consequences, with their attendant train of evils, is to adhere

* This is precisely what the National Reform Association proposes to do when religious legislation is once recognized. In the *Christian Statesman* of Feb. 21, 1884, Rev. J. M. Foster, a “district secretary” of the National Reform Association, declared that among the duties which the reigning Mediator requires of nations, is “an acknowledgment and performance of the nation’s duty to guard and protect the church by suppressing all public violation of the moral law, . . . by exempting church property from taxation,” and “*by providing her funds out of the public treasury, for carrying on her aggressive work at home and in the foreign field.*” The Scripture says, “God hath ordained that they which preach the gospel shall live of the gospel;” but these men propose to ordain that they which preach the gospel shall live of the law, through the public treasury.

strictly to the spirit of the Constitution, which regards the general Government in no other light than that of a civil institution, wholly destitute of religious authority. *What other nations call religious toleration, we call religious rights. They are not exercised in virtue of governmental indulgence, but as rights, of which Government cannot deprive any portion of citizens, however small. Despotic power may invade those rights, but justice still confirms them.*

“Let the national legislature once perform an act which involves the decision of a religious controversy, and it will have passed its legitimate bounds. The precedent will then be established, and the foundation laid, for that usurpation of the divine prerogative in this country which has been the desolating scourge to the fairest portion of the Old World.

“Our Constitution recognizes no other power than that of persuasion, for enforcing religious observances. Let the professors of Christianity recommend their religion by deeds of benevolence, by Christian meekness, by lives of temperance and holiness. Let them combine their efforts to instruct the ignorant, to relieve the widow and the orphan, to promulgate to the world the gospel of their Saviour, recommending its precepts by their habitual example; Government will find its legitimate object in protecting them. It cannot oppose them, and they will not need its aid. *Their moral influence will then do infinitely more to advance the true interests of religion, than any measure which they may call on Congress to enact.* The petitioners do not complain of any infringement upon their own rights. They enjoy all that Christians ought to ask at the hands of any Government — protection from all molestation in the exercise of their religious sentiments.’

“Resolved, That the committee be discharged from any further consideration of the subject.”

APPENDIX A.

WE here append some statements of prominent citizens of Arkansas, who are not observers of the seventh day, in relation to the workings of that Sunday law, which show that our report of the cases is not "manufactured" in any particular.

We first give in full a statement from Judge S. W. Williams, of Little Rock, an ex-judge of the State Supreme Court, and one of the foremost lawyers in the State:—

LITTLE ROCK, ARK., March 21, 1887.

Rev. Dan. T. Jones,

SIR: As requested, I give you a short *resume* of the history of our Sabbath law of 1885. Up to the time of the meeting of the legislature in January, 1885, our Sunday law had always excepted from its sanctions the cases wherein persons from conscience kept the seventh day as the Sabbath. It had been the case for many years at the capital, that no Sabbath laws were observed by the saloon-keepers. After the election of 1884, the newly elected prosecuting attorney of that district, commenced a rigid enforcement of the law. A few Jewish saloon-keepers successfully defied it during the session of the legislature. This led to the total and unqualified repeal of the conscience proviso for the seventh day in the old law. This was used oppressively upon the seventh-day Sabbath Christians, to an extent that shocked the bar of the whole State. A test case was brought from Washington County. Our Supreme Court could not see its way clear to hold the law unconstitutional, but the judges, as

men and lawyers, abhorred it. Judge B. B. Battle, one of the three judges, was, with Judge Rose and myself, a member of the standing committee on law reform of our State Bar Association. In our report, as you see, we recommended a change, which the Association adopted unanimously, Chief-Justice Cockrill and Associate-Justices Smith and Battle being members, present and voting. At the meeting of the General Assembly the next week (January, 1887), Senator Crockett introduced a bill repealing the obnoxious law, in so far as it affected those who keep holy the seventh day, still forbidding the opening of saloons on Sunday. Truly yours,

SAM. W. WILLIAMS.

In the following letter, Judge U. M. Rose, of the law firm of U. M. & G. B. Rose, Little Rock, one of the leading lawyers in the State, and a member of the committee on law reform of the State Bar Association, gives his opinion of the reasons why the law was enacted, and also his views as a lawyer on the propriety of such legislation. We print his letter in full:—

LITTLE ROCK, ARK., April 15, 1887.

Rev. Dan. T. Jones,

Springdale, Ark.,

DEAR SIR: Yours received. The law passed in this State in 1885, and which has since been repealed, requiring all persons to keep Sunday as a day of rest, although they might religiously keep some other day of the week, was enacted, I think, to meet the case of certain Jews in this city who kept saloons and other business houses open on Sunday. It was said that those persons only made a pretense of keeping Saturday as a day of rest. Whether these statements were true or not, I do not know. The act of 1885 was found to work oppressively on persons believing as you do that Saturday is the Christian as well as the Jewish Sabbath; and hence its repeal. It was manifestly unjust to them as well as to Jews who are sincere in their faith.

You ask me to express my opinion as to the propriety of such legislation as that contained in the repealed act.

Nothing can exceed my abhorrence for any kind of legislation that has for its object the restraint of any class of men in the exercise of their own religious opinions. It is the fundamental basis of our Government that every man shall be allowed to worship God according to the dictates of his own conscience. It was certainly not a little singular, that while in our churches the command was regularly read at stated times, requiring all men to keep the Sabbath, which, amongst the Jews to whom the command was addressed, was the seventh day of the week, men should be prosecuted and convicted in the courts for doing so. As to the theological aspect of the matter, I am not competent to speak; but as a civil requirement, my opinion is that any legislation that attempts to control the consciences of men as to the discharge of religious duty, can only be the result of that ignorance and fanaticism which for centuries proved to be the worst curse that ever afflicted humanity.

Very respectfully yours,

U. M. ROSE.

Mr. E. Stinson is a farmer and teacher in Hot Spring County, and writes:—

MALCOLM, HOT SPRING CO., ARK., March 27, 1887.

Mr. Jones,

DEAR SIR: In answer to your inquiry, will say that since the repeal of the exemption clause in our statutes, which allowed persons who kept another day than Sunday as Sabbath, to go about their ordinary work or business on that day, several indictments have been found in Hot Spring County. In each and every case the parties so indicted have been conscientious observers of the seventh day, so far as I know them. To my knowledge, others have worked on Sunday who did not observe the seventh day, and no bills were found against them. I believe the prosecutions to be more for religious persecution than for the purpose of guarding the Sunday from desecration. The men who have been indicted are all good moral men and law-abiding citizens, to the best of my knowledge. The indictments, to the best of my belief, were malicious in their character, and without provocation. I believe the unmodified Sunday law to be

unjust in its nature, and that it makes an unjust discrimination against a small but worthy class of our citizens. I am a member of the Baptist Church, and not an observer of the seventh day ; but I accept with gratitude the recent change in the laws of our State, which shows more respect for the conscientious convictions of all our citizens. I do not believe that if the same acts for which the indictments were lodged against Seventh-Day Adventists, had been committed by those who did not keep the seventh day, any notice would have been taken of them.

Respectfully,
E. STINSON.

We present in full a letter from the physician and the proprietor of the Potash Sulphur Springs Hotel, a health resort seven miles southeast of Hot Springs. These gentlemen are both old residents of the place, and are personally acquainted with some of those who were convicted of Sabbath-breaking in Hot Spring County.

POTASH SULPHUR SPRINGS, ARK., March, 1887.

To whom it may concern:—

We, the undersigned, herewith testify that the recent prosecutions against the observers of the seventh-day Sabbath in our vicinity, have brought to the surface a religious intolerance and a spirit of persecution, the existence whereof a great many imagine not to exist any more in our time.

J. T. FAIRCHILD, M. D.
E. E. WOODCOCK.

Another letter, from Mr. Fitzhugh, a Justice of the Peace, and acting deputy-sheriff in Hot Spring County during the two years in which the unmodified Sunday law was in force, will show the estimate as citizens and neighbors, placed upon some who were indicted for Sabbath-breaking.

STATE OF ARKANSAS, COUNTY OF HOT SPRING,
SALIM TOWNSHIP, April 9, 1887.

On the second day of March, 1885, the legislature of Arkansas repealed the law allowing any person to observe

as the Sabbath any day of the week that they preferred, and compelled them to keep the Christian Sabbath, or first day of the week. The effect of this change worked a hardship on a class of citizens in this county, known as Seventh-day Adventists, who observe the seventh instead of the first day of the week, as the Lord's Sabbath. There were five or six of them indicted (and some of them the second time) by the Grand Jury of this county, for the violation of this law. In fact, these people were the only ones that were indicted for Sabbath-breaking, during the two years in which this law was in force. I was not intimately acquainted with but one of these people, Mr. John Shockey, who moved from Ohio, and settled within one and one fourth miles of me, some two and a half years ago. I know nothing in the character of this gentleman but what would recommend him to the world at large. As a citizen, he recognizes and regards the laws of our country (with the above exception); as a neighbor, he might well be called a Samaritan; as a Christian, he is strict to his profession, and proves his faith by his works.

Respectfully,

BENJ. C. FITZHUGH, *Justice of the Peace.*
Malvern, Hot Spring Co., Ark.

APPENDIX B.

THE BLAIR BILL, WITH CHANGES DESIRED BY THE AMERICAN SABBATH UNION.

AT the National Sunday-law convention held in Washington, D. C., Dec. 11-13, 1888, the original Blair Sunday bill was discussed by the preachers, with Mrs. J. Ellen Foster as legal adviser, and the following changes were proposed, and unanimously adopted Dec. 12. This is from the official record. The changes are indicated by stars and bold-faced letters.

"A Bill to secure to the people the enjoyment of the **Lord's day, commonly known as Sunday**, as a day of rest, and to **protect** its observance as a day of religious worship.

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That **on Sunday**, no person or corporation, or the agent, servant, or employee of any person or corporation, shall perform, or authorize to be performed, any secular work, labor, or business, * * * works of necessity, mercy, and humanity excepted; nor shall any person engage in any play, game, **show, exhibition**, or amusement * * * **open to the public, or of a public character**, in any Territory, district, vessel, or place subject to the exclusive jurisdiction of the United States; nor shall it be lawful for any person or corporation to receive pay for labor or service performed or rendered in violation of this section.

"SEC. 2. That no mails or mail matter shall hereafter be transported in time of peace over any land postal-route,

nor shall any mail matter be collected, assorted, handled, or delivered during any part of **Sunday**.

"SEC. 3. That the prosecution of commerce between the States and with the Indian tribes, * * * by the transportation of persons or property by land or water * * * on the first day of the week, * * * is hereby prohibited, and any person or corporation, or the agent, servant, or employee of any person or corporation, who shall * * * violate this section, shall be punished by a fine of not less than ten nor more than one thousand dollars, and no service performed in the prosecution of such prohibited commerce shall be lawful, nor shall any compensation be recoverable or be paid for the same.

"SEC. 6. That labor or service performed and rendered on **Sunday** in consequence of accident, disaster, or unavoidable delays in making the regular connections upon postal-routes and routes of travel and transportation, the * * * transportation and delivery of **milk before 5 A. M. and after 10 P. M.**, * * * shall not be deemed violations of this act, but the same shall be construed, so far as possible, to secure to the whole people rest from toil during **Sunday**, their mental and moral culture, and the **protection of the** religious observance of the * * * day."

The reasons for the changes asked are, in part, as follows:—

"For religious purposes we prefer the name *Lord's day* or *Christian Sabbath* but as *Sunday* is already used in national laws, we think it better to use that uniformly in this bill, with the one exception of the double name in the title.

"The word *promote* in the title goes beyond what many, even Christian citizens, believe to be the proper function of government with reference to 'religious worship,' while the word *protect* (see also last line) expresses a duty which government owes to all legitimate institutions of the people.

"Experience in the courts has shown that the words *show* and *exhibition* should be added to the list of prohibited Sunday amusements, and the words *in public*, in

place of *to the disturbance of others*, as the latter clause has been construed as requiring that persons living in the neighborhood of a Sunday game or show must testify that they have been disturbed, in order to a conviction, which cannot be done in some cases without personal peril.

"In Section 2, we believe that the exceptions for letters relating to sickness, etc., are unnecessary in this age of the telegraph; and that they would be used by unscrupulous men in business correspondence, and that this would destroy most of the benefits of the law in its bearing on Sunday mails.

"In Section 3, we believe the exceptions made would greatly interfere with the administration of the law. The exception for work of mercy and necessity is made, once for all, in the first section. The reference to 'the disturbance of others' is objectionable for reasons already given, and the word *willfully* is an old offender in Sabbath legislation, and requires evidence very hard to get in regard to one's motive and knowledge of the law. In other laws it is assumed that one knows the law, and the law-making power should see that the laws are well published, and leave no room for one to escape by agnosticism.

"In Section 3 (as in Section 1 also), we would omit the words *Lord's day*, and in Section 6, *Sabbath*, in order to preserve uniformity in using the less religious term *Sunday*.

"In Section 6, we think refrigerator cars make Sunday work in transportation of perishable food, except milk, unnecessary, and the new stock-cars, with provision for food and water, do the same for stock-trains. So many of the State Sunday laws have proved almost useless in protecting the rights of the people to Sunday rest and undisturbed worship, by the smallness of their penalties and the largeness of their exceptions, that we covet from Congress a law that shall make itself effective by small exceptions and large penalties."

With a little care in comparison, the reader can readily see what changes have been made in the bill. We have omitted Sections 4 and 5 from the revised bill, because

they are the same as the corresponding sections in the original bill, with the single exception that the word *Sunday* is substituted for *Lord's day*, in the last line of Section 4. We hope that every one will study both bills thoroughly, together with the committee's reasons for the changes. Any one can see that the changes are in the line of greater stringency. We note only the most prominent points.

1. The change from *Lord's day* to *Sunday*, although a proper one, is in reality no change at all, since the term *Lord's day* is still used at the beginning, and it is expressly stated that *Sunday* is used only as a matter of custom. It is understood that it is as a *religious* day, indicated by the term *Lord's day*, that they want the observance of the first day of the week enforced; but if the term *Sunday* is quite generally used, it will, no doubt, "take" better.

2. In asking for the "*protection* of the religious observance of the day," instead of the *promotion* of its observance as a day of religious worship, the committee threw a sop to those who are "on the fence" in regard to religious legislation. As it stands, it amounts to nothing; for there is not a State or Territory in the Union where any religious service held on Sunday would not be protected.

3. The most important change of all, however, is the substitution of the words *in public* for *to the disturbance of others*, in Section 1. This will certainly make the law more effective. It is obvious that if a man were to engage in work a mile from a dwelling-house, it would be quite a task for the owner of the house to convince even an ordinary jury that such labor disturbed him; but by the terms of the amended bill, the man may be convicted if he is working in a public place, provided anybody can get near enough to him to see him.

4. Notice the radical change made in Section 2. As amended, it is most sweeping, allowing of no exception. The mail is not to be carried at all on Sunday, even in cases of sickness and death, lest some "unscrupulous" person should mention business on that day. If the mail is not carried, of course that will make him a good man! It is no concern of ours how they propose to carry out this law, but we can't help wondering what they will do when Sunday comes, and a train carrying the mail is on the way from one city to another within the same State, say from San Francisco to Los Angeles. The train is owned by a corporation, and is not in a part of the country "subject to the exclusive jurisdiction of the United States," and therefore could not be forced to lie over. The only way out of the difficulty, under the provision of this bill, would be to dump all the mail out at the nearest station, and let it lie there till Sunday was past.

This, however, would not be done. What would be done, would be the passing of laws by the several States, forbidding all labor within their jurisdiction; and it is this for which these zealous people are scheming. This United States law is designed as a precedent, and as a lever with which to secure the religious observance of Sunday by all the people in the United States, whether they are religious or not.

5. We wish to call special attention, also, to the last sentence of the "reason for the changes asked." It says: "So many of the State Sunday laws have proved almost useless in protecting the rights of the people to Sunday rest and undisturbed worship, by the smallness of their penalties and the largeness of their exceptions, that we covet from Congress a law that shall make itself effective by *small exceptions and large penalties*." There the real spirit of the dragon exhibits itself. In that simple statement is compressed a world of bigotry and animosity.

APPENDIX C.

THE DECLARATION OF INDEPENDENCE.

WHEN, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume, among the powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate that governments long established, should not be changed for light and transient causes; and accordingly, all experience hath shown that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these Colonies, and such is now the necessity which constrains them to alter their former systems of government. The history of the present king of Great Britain, is a history of repeated injuries and usurpations, all having, in direct object, the establishment of an absolute tyranny over these States. To prove this, let facts be submitted to a candid world:—

He has refused his assent to laws the most wholesome and necessary for the public good.

He has forbidden his Governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be

obtained ; and, when so suspended, he has utterly neglected to attend to them.

He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature ; a right inestimable to them, and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly, for opposing, with manly firmness, his invasions on the rights of the people.

He has refused, for a long time after such dissolutions, to cause others to be elected ; whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise ; the State remaining, in the meantime, exposed to all the danger of invasion from without, and convulsions within.

He has endeavored to prevent the population of these States ; for that purpose obstructing the laws for the naturalization of foreigners, refusing to pass others to encourage their migration hither, and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers to harass our people and eat out their substance.

He has kept among us, in times of peace, standing armies, without the consent of our legislature.

He has affected to render the military independent of, and superior to, the civil power.

He has combined, with others, to subject us to a jurisdiction foreign to our Constitution, and unacknowledged by our laws ; giving his assent to their acts of pretended legislation.

For quartering large bodies of armed troops among us :

For protecting them, by a mock trial, from punishment for any murders which they should commit on the inhabitants of these States :

For cutting off our trade with all parts of the world :

For imposing taxes on us without our consent :

For depriving us, in many cases, of the benefits of trial by jury :

For transporting us beyond seas to be tried for pretended offenses :

For abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the same absolute rule into these Colonies :

For taking away our charters, abolishing our most valuable laws, and altering, fundamentally, the powers of our governments :

For suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated government here, by declaring us out of his protection, and waging war against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is, at this time, transporting large armies of foreign mercenaries to complete the works of death, desolation, and tyranny, already begun, with circumstances of cruelty and perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow-citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrections among us, and has endeavored to bring on the inhabitants of our frontiers the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, and conditions.

In every stage of these oppressions, we have petitioned for redress in the most humble terms; our repeated petitions have been answered only by repeated injury. A prince whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attention to our British brethren. We have warned them, from time to time, of attempts made by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them, by the ties of our common kindred, to disavow these usurpations, which would inevitably interrupt our connections and correspondence. They, too, have been deaf to the voice of justice and consanguinity. We must, therefore, acquiesce in the necessity which denounces our separation, and hold them, as we hold the rest of mankind, enemies in war, in peace friends.

We, therefore, the Representatives of the United States of America, in General Congress assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name and by the authority of the good people of these Colonies, solemnly publish and declare, That these United Colonies are, and, of right, ought to be, *free and independent States*; that they are absolved from all allegiance to the British crown, and that all political connection between them and the State of Great Britain is, and ought to be, totally dissolved; and that, as *free and independent States*, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which *independent States* may of right do. And, for the support of this Declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor.

Massachusetts Bay.

JOHN HANCOCK,
SAMUEL ADAMS,
JOHN ADAMS,
ROBERT TREAT PAINE,
ELBRIDGE GERRY.

New Hampshire.

JOSIAH BARTLETT,
WILLIAM WHIPPLE,
MATTHEW THORNTON.

Rhode Island.

STEPHEN HOPKINS,
WILLIAM ELLERY.

New York.

WILLIAM FLOYD,
PHILIP LIVINGSTON,
FRANCIS LEWIS,
LEWIS MORRIS.

New Jersey.

RICHARD STOCKTON,
JOHN WITHERSPOON,
FRANCIS HOPKINSON,
JOHN HART,
ABRAHAM CLARK.

Pennsylvania.

ROBERT MORRIS,
BENJAMIN RUSH,
BENJAMIN FRANKLIN,
JOHN MORTON,
GEORGE CLYMER,
JAMES SMITH,
GEORGE TAYLOR,
JAMES WILSON,
GEORGE ROSS.

Connecticut.

ROGER SHERMAN,
SAMUEL HUNTINGTON,
WILLIAM WILLIAMS,
OLIVER WOLCOTT.

Delaware.

CÆSAR RODNEY,
GEORGE READ,
THOMAS M'KEAN.

Maryland.

SAMUEL CHASE,
WILLIAM PACA,
THOMAS STONE,
CHARLES CARROLL, of Carrollton.

Virginia.

GEORGE WYTHE,
RICHARD HENRY LEE,
THOMAS JEFFERSON,
BENJAMIN HARRISON,
THOMAS NELSON, JUN.,
FRANCIS LIGHTFOOT LEE,
CARTER BRAXTON.

North Carolina.

WILLIAM HOOPER,
JOSEPH HEWES,
JOHN PENN.

South Carolina.

EDWARD RUTLEDGE,
THOMAS HEYWARD, JUN.,
THOMAS LYNCH, JUN.,
ARTHUR MIDDLETON.

Georgia.

BUTTON GWINNETT,
LYMAN HALL,
GEORGE WALTON.

APPENDIX D.

THE CONSTITUTION OF THE UNITED STATES.

WE, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE I.

SECTION 1. All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

SEC. 2. The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each State shall have at least one representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three; Massachusetts, eight; Rhode Island and Providence Plantations, one; Connecticut, five; New York, six; New Jersey, four; Pennsylvania, eight; Delaware, one; Maryland, six; Virginia, ten; North Carolina, five; South Carolina, five; and Georgia, three.

When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.

The House of Representatives shall chose their Speaker and other officers, and shall have the sole power of impeachment.

SEC. 3. The Senate of the United States shall be composed of two senators from each State, chosen by the legislature thereof, for six years; and each senator shall have one vote.

Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year; of the second class, at the expiration of the fourth year; and of the third class, at the expiration of the sixth year, so that one third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any State, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

The Vice-President of the United States shall be president of the Senate, but shall have no vote, unless they be equally divided.

The Senate shall choose their other officers, and also a president *pro tempore*, in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief-Justice shall preside. And no person shall be convicted without the concurrence of two thirds of the members present.

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law.

SEC. 4. The times, places, and manner of holding elections for senators and representatives shall be prescribed in each State by the legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the places of choosing senators.

The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall, by law, appoint a different day.

SEC. 5. Each house shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and be authorized to compel the attendance of absent members, in such manner and under such penalties as each house may provide.

Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member.

Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either house on any question shall, at the desire of one fifth of those present, be entered on the journal.

Neither house, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SEC. 6. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place..

No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office.

SEC. 7. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments, as on other bills.

Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States; if he approve, he shall sign it; but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two thirds of that house, it shall become a law. But in all such cases, the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the President within ten days (Sunday excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Congress by their adjournment prevent its return; in which case it shall not be a law.

Every order, resolution, or vote to which the concurrence of the Senate and the House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or, being disapproved

by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

SEC. 8. The Congress shall have power —

To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States;

To borrow money on the credit of the United States;

To regulate commerce with foreign nations, and among the several States, and with the Indian tribes;

To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

To provide for the punishment of counterfeiting the securities and current coin of the United States;

To establish post-offices and post-roads;

To promote the progress of science and useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries;

To constitute tribunals inferior to the Supreme Court;

To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations;

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

To provide and maintain a navy;

To make rules for the government and regulation of the land and naval forces;

To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions;

To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress;

To exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the Government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings; and—

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other power vested by this Constitu-

tion in the Government of the United States, or in any department or officer thereof.

SEC. 9. The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

The privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

No bill of attainder or *ex post facto* law shall be passed.

No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

No tax or duty shall be laid on articles exported from any State.

No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another; nor shall vessels bound to or from one State, be obliged to enter, clear, or pay duties in another.

No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign State.

SEC. 10. No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, or grant any title of nobility.

No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts laid by any State on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

No State shall, without the consent of Congress, lay any duty on tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

SECTION 1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice-President chosen for the same term, be elected as follows:—

Each State shall appoint, in such manner as the legislature thereof may

direct, a number of electors, equal to the whole number of senators and representatives to which the State may be entitled in the Congress; but no senator or representatives, or persons holding an office of trust or profit under the United States, shall be appointed an elector.

The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

No person, except a natural-born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President, and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

Before he enters on the execution of his office, he shall take the following oath or affirmation:—

“I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States.”

SEC. 2. The President shall be Commander-in-Chief of the army and navy of the United States, and of the militia of the several States, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardon for offenses against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint, ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of departments,

The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions, which shall expire at the end of their next session.

SEC. 3. He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient ; he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper ; he shall receive ambassadors and other public ministers ; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

SEC. 4. The President, Vice-President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

ARTICLE III.

SECTION 1. The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office.

SEC. 2. The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority ; to all cases affecting ambassadors, other public ministers, and consuls ; to all cases of admiralty and maritime jurisdiction ; to controversies to which the United States shall be a party ; to controversies between two or more States ; between a State and citizens of another State ; between citizens of different States ; between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign States, citizens, or subjects.

In all cases affecting ambassadors, other public ministers, and consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury ; and such trial shall be held in the State where the said crime shall have been committed ; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

SEC. 3. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort.

No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attainted.

ARTICLE IV.

SECTION 1. Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

SEC. 2. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

SEC. 3. New States may be admitted by the Congress into this Union ; but no new State shall be formed or erected within the jurisdiction of any other State ; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the legislatures of the States concerned, as well as of the Congress.

The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States ; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State.

SEC. 4. The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and, on application of the legislature or of the executive (when the legislature cannot be convened), against domestic violence.

ARTICLE V.

The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid, to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three fourths of the several States, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress ; provided, that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first Article, and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

ARTICLE VI.

All debts contracted and engagements entered into before the adoption of the Constitution, shall be as valid against the United States under this Constitution as under the Confederation.

This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land ; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

The senators and representatives before mentioned, and the members of the several State legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution ; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII.

The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

AMENDMENTS TO THE CONSTITUTION.

ARTICLE I.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof ; or abridging the freedom of speech, or of the press ; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

ARTICLE II.

A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

ARTICLE III.

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

ARTICLE IV.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated ; and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ARTICLE V.

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of

war and public danger ; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb, nor shall be compelled in any criminal case to be a witness against himself ; nor to be deprived of life, liberty, or property, without due process of law ; nor shall private property be taken for public use without just compensation.

ARTICLE VI.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation ; to be confronted with the witnesses against him ; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

ARTICLE VII.

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court of the United States than according to the rules of the common law.

ARTICLE VIII.

Excessive bail shall not be required, nor excessive fines be imposed, nor cruel and unusual punishments inflicted.

ARTICLE IX.

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

ARTICLE X.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

ARTICLE XI.

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State.

ARTICLE XII.

The electors shall meet in their respective States, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves. They shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President ; and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number

of votes for each, which lists they shall sign and certify, and transmit, sealed, to the seat of the Government of the United States, directed to the president of the Senate. The president of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other Constitutional disability of the President. The person having the greatest number of votes as Vice-President shall be the Vice-President, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice. But no person Constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

ARTICLE XIII.

SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SEC. 2. Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XIV.

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the State in which they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, representatives in Congress, the executive and judicial officers of

a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

SEC. 3. No person shall be a senator or representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two thirds of each house, remove such disability.

SEC. 4. The validity of the public debt of the United States authorized by law, including debts incurred by payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

SEC. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

ARTICLE XV.

SECTION 1. The right of the citizens of the United States to vote shall not be denied or abridged by the United States, or by any State, on account of race, color, or previous condition of servitude.

SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

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NATIONAL RELIGIOUS LIBERTY ASSOCIATION.



CONGRESS ON SUNDAY LEGISLATION.

DURING the years 1828-29 Congress was petitioned by certain religious bodies to pass a law prohibiting the opening of post-offices and the transportation of mails on Sunday. The petitions were referred to the proper committees, and a report upon the question was returned to the Senate Jan. 19, 1829.* The report was made by Colonel Johnson, of Kentucky, subsequently Vice-President of the United States, who was then chairman of the Senate Committee on Post-offices and Post-roads. It was adopted by the Senate, and received the approbation of both press and people. Thus, in the Twentieth Congress, the Sunday-law agitators, in the words of one of the memorials, met with "a most signal defeat." So, early the next session, with a "vigor increased by disappointment," they renewed their petitioning, and were more importunate than before. Daily the petitions, representing all parts of the country, came into Congress. According to Mr. Crafts, in his work entitled, "Sabbath for Man," "467 petitions were sent in from twenty-one States."

But this expression of zeal on the part of the religious "reformers," aroused their Christian brethren who preferred to have the Government keep its hands off of religion, and consequently they, too, sent in a few memorials.

Another peculiar political event happened about this time that completed the discomfiture of the Sunday-rest advocates. The Senatorial term of Colonel Johnson had expired, and, instead of the Legislature returning him to the Senate, the people sent him to represent them in the House of Representatives. He was immediately appointed chairman of the House Committee on Post-offices and Post-roads,

* For a copy of this and also of the House report of 1830, see the work, "American State Papers," pp. 89-124, published by the National Religious Liberty Association.

and, as such, received these petitions on the Sunday-mail question. The valiant Colonel was happy to receive them, and perfectly willing to present another "Sunday mail report," which he accordingly did at his first opportunity. This report, which was communicated to the House of Representatives, March 4 and 5, 1830, adopted and printed, we present as a logical, comprehensive, and conclusive argument upon this question, and worthy of the careful consideration of all men. It reads as follows:—

Mr. Johnson, of Kentucky, from the Committee on Post-offices and Post-roads, to whom had been referred memorials from various parts of the United States, praying for a repeal of so much of the post-office law as authorizes the mail to be transported and opened on Sunday, and to whom had also been referred memorials from other inhabitants of various parts of the United States remonstrating against such repeal, made the following report:—

That the memorialists regard the first day of the week as a day set apart by the Creator for religious exercises, and consider the transportation of the mail and the opening of the post-offices on that day the violation of a religious duty, and call for a suppression of the practice.

Others, by counter-memorials, are known to entertain a different sentiment, believing that no one day of the week is holier than another. Others, holding the universality and immutability of the Jewish decalogue, believe in the sanctity of the seventh day of the week as a day of religious devotion, and, by their memorial now before the committee, they also request that it be set apart for religious purposes. *Each has hitherto been left to the exercise of his own opinion, and it has been regarded as the proper business of Government to protect all and determine for none.* But the attempt is now made to bring about a greater uniformity, at least in practice; and, *as argument has failed,* the Government has been called upon to interpose its authority to settle the controversy.

Congress acts under a Constitution of delegated and limited powers. The Committee look in vain to that instrument for a delegation of power authorizing this body to inquire and determine what part of time, or whether any, has been set apart by the Almighty for religious exercises. *On the contrary, among the few prohibitions which it contains, is one that prohibits a religious test, and another that declares that Congress shall pass no law respecting the establishment of religion, or prohibiting the free exercise thereof.*

The Committee might here rest the argument upon the ground that the question referred to them does not come within the cognizance of Congress ; but the perseverance and zeal with which the memorialists pursue their object seems to require a further elucidation of the subject ; and, as the opposers of Sunday mails disclaim all intention to unite church and state, the Committee do not feel disposed to impugn their motives ; and whatever may be advanced in opposition to the measure will arise from the fears entertained of its fatal tendency to the peace and happiness of the nation. The catastrophe of other nations furnished the framers of the Constitution a beacon of awful warning, and they have evinced the greatest possible care in guarding against the same evil.

The law, as it now exists, makes no distinction as to the days of the week, but is imperative that the postmasters shall attend at all reasonable hours in every day to perform the duties of their offices ; and the Postmaster-General has given his instructions to all postmasters that, at post-offices where the mail arrives on Sunday, the office is to be kept open one hour or more after the arrival and assorting of the mail ; but in case that would interfere with the hours of public worship, the office is to be kept open for one hour after the usual time of dissolving the meeting. This liberal construction of the law does not satisfy the memorialists ; but the committee believe that there is no just ground of complaint, unless it be conceded that they have a controlling power over the consciences of others.

If Congress shall, by the authority of law, sanction the measure recommended, it would constitute a legislative decision of a religious controversy, in which even Christians themselves are at issue. However suited such a decision may be to an ecclesiastical council, it is incompatible with a republican legislature, which is purely for political, and not for religious purposes.

In our individual character we all entertain opinions, and pursue a corresponding practice, upon the subject of religion. However diversified these may be, we all harmonize as citizens *while each is willing that the other shall enjoy the same liberty which he claims for himself.* But in our representative character our individual character is lost. The individual acts for himself, the representative for his constituents. He is chosen to represent their *political*, and not their *religious*, views ; to guard the rights of man, not to restrict the rights of conscience.

Despots may regard their subjects as their property, and usurp the divine prerogative of prescribing their religious faith ; but the history

of the world furnishes the melancholy demonstration that the disposition of one man to coerce the religious homage of another, springs from an unchastened ambition, rather than [from] a sincere devotion to any religion. The principles of our Government do not recognize in the majority any authority over the minority, except in matters which regard the conduct of man to his fellow-man.

A Jewish monarch, by grasping the holy censer, lost both his scepter and his freedom. A destiny as little to be envied may be the lot of the American people who hold the sovereignty of power, if they, in the person of their representatives, shall attempt to unite, *in the remotest degree*, church and state.

From the earliest period of time, religious teachers have attained great ascendancy over the minds of the people, and in every nation, ancient or modern, whether pagan, Mohammedan, or Christian, have succeeded in the incorporation of their religious tenets with the political institutions of their country. The Persian idols, the Grecian oracles, the Roman auguries, and the modern priesthood of Europe, have all, in their turn, been the subject of popular adulation, and the agents of political deception. *If the measure recommended should be adopted, it would be difficult for human sagacity to foresee how rapid would be the succession, or how numerous the train of measures which would follow, involving the dearest rights of all — the rights of conscience.*

It is perhaps fortunate for our country that the proposition should have been made at this early period while the spirit of the Revolution yet exists in full vigor. Religious zeal enlists the strongest prejudices of the human mind; and, when misdirected, excites the worst passions of our nature, under the delusive pretext of doing God service. Nothing so infuriates the heart to deeds of rapine and blood, nothing is so incessant in its toils, so persevering in its determination, so appalling in its course, or so dangerous in its consequences. The equality of rights secured by the Constitution, may bid defiance to mere political tyrants; but the robe of sanctity too often glitters to deceive. *The Constitution regards the conscience of the Jew as sacred as that of the Christian, and gives no more authority to adopt a measure affecting the conscience of a solitary individual than that of a whole community.* That representative who would violate this principle would lose his delegated character, and forfeit the confidence of his constituents.

If Congress shall declare the first day of the week holy, it will not convince the Jew nor the Sabbatarian. It will dissatisfy both, and, consequently, convert neither. Human power may extort vain sacrifices, but the Deity alone can command the affections of the heart.

It must be recollected that in the earliest settlement of this country, the spirit of persecution which drove the Pilgrims from their native home was brought with them to their new habitations, and that some Christians were scourged, and others put to death, for no other crime than dissenting from the dogmas of their rulers.

With these facts before us, it must be a subject of deep regret that a question should be brought before Congress which involves the dearest privileges of the Constitution, and even by those who enjoy its choicest blessings. *We* should all recollect that Cataline, a professed patriot, was a traitor to Rome; Arnold, a professed Whig, was a traitor to America; and Judas, a professed disciple, was a traitor to his divine Master.

With the exception of the United States, the whole human race, consisting, it is supposed, of eight hundred millions of rational beings, is in religious bondage; and, in reviewing the scenes of persecution which history everywhere presents, unless the Committee could believe that the cries of the burning victim, and the flames by which he is consumed, bear to heaven a grateful incense, the conclusion is inevitable that the line cannot be too strongly drawn between church and state. If a solemn act of legislation shall, in *one* point, define the law of God, or point out to the citizen *one* religious duty, it may with equal propriety, proceed to define *every* part of divine revelation, and enforce *every* religious obligation, even to the forms and ceremonies of worship, the endowment of the church, and the support of the clergy.

It was with a kiss that Judas betrayed his divine Master; and we should all be admonished, no matter what our faith may be, that the rights of conscience cannot be so successfully assailed as under the pretext of holiness. The Christian religion made its way into the world in opposition to all human governments. Banishment, tortures, and death were inflicted in vain to stop its progress. But many of its professors, as soon as clothed with political power, lost the meek spirit which their creed inculcated, and began to inflict on other religions, and on dissenting sects of their own religion, persecutions more aggravated than those which their own apostles had endured.

The ten persecutions of the pagan emperors were exceeded in atrocity by the massacres and murders perpetuated by Christian hands; and in vain shall we examine the records of imperial tyranny for an engine of tyranny equal to the holy Inquisition. *Every religious sect, however meek in its origin, commenced the work of persecution as soon as it acquired political power.*

The framers of the Constitution recognized the eternal principle that man's relation with his God is above human legislation, and his rights of conscience inalienable. Reasoning was not necessary to establish this truth; we are conscious of it in our bosoms. It is the consciousness which in defiance of human laws, has sustained so many martyrs in tortures and in flames. They *felt* that their duty to God was superior to human enactments, and that man could exercise no authority over their consciences. *It is an inborn principle which nothing can eradicate.* The bigot in the pride of his authority, may lose sight of it, but, strip him of his power, prescribe a faith to him which his conscience rejects, threaten him in turn with the dungeon and the fagot, and this spirit which God has implanted in him rises up in rebellion and defies you.

Did the primitive Christians ask that Government should recognize and observe their religious institutions? — All they asked was toleration; all they complained of was persecution. What did the Protestants of Germany, or the Huguenots of France, ask of their Catholic superiors? — Toleration. What do the persecuted Catholics of Ireland ask of their oppressors? — Toleration. Do not all men in this country enjoy every religious right which martyrs and saints ever asked? Whence, then, the voice of complaint? Who is it that, in the full enjoyment of every principle which human laws can secure, wishes to wrest a portion of these principles from his neighbor?

Do the petitioners allege that they cannot conscientiously participate in the profits of the mail contracts and post-offices, because the mail is carried on Sunday? If this be their motive, then it is worldly gain which stimulates to action, and not virtue and religion. Do they complain that men less conscientious in relation to the Sabbath obtain advantages over them by receiving their letters and attending to their contents? Still their motive is worldly and selfish. But if their motive be to induce Congress *to sanction, by law, their religious opinions and observances*, then their efforts ought to be resisted, as in their tendency *fatal both to religious and political freedom.*

Why have the petitioners confined their prayer to the mails? Why have they not requested that the Government be required to suspend *all* its executive functions on that day? Why do they not require us to enact that our ships shall not sail; that our armies shall not march; that officers of justice shall not seize the suspected or guard the convicted? They seem to forget that Government is as necessary on Sunday as on any other day of the week. The spirit of evil does not rest on that day. It is the Government, ever active in

its functions, which enables us all, even the petitioners, to worship in our churches in peace.

Our Government furnishes very few blessings like our mails. They bear from the center of our republic to its distant extremes the acts of our legislative bodies, the decisions of the judiciary, and the orders of the executive. Their speed is often essential to the defense of the country, the suppression of crime, and the dearest interests of the people. Were they suppressed one day of the week, their absence must be often supplied by public expresses; and, besides, while the mail-bags might rest, the mail-coaches would pursue their journey with their passengers. The mail bears, from one extreme of the Union to the other, letters of relatives and friends, preserving a communion of heart between those far separated, and increasing the most pure and refined pleasures of our existence; also, the letters of commercial men convey the state of the markets, prevent ruinous speculations, and promote general as well as individual interest; they bear innumerable religious letters, newspapers, magazines, and tracts, which reach almost every house throughout this wide republic. Is the conveyance of these a violation of the Sabbath?

The advance of the human race in intelligence, in virtue, and religion itself, depends in part upon the speed with which a knowledge of the past is disseminated. Without an interchange between one country and another, and between different sections of the same country, every improvement in moral and political science, and the arts of life, would be confined to the neighborhood where it originated. The more rapid and the more frequent this interchange, the more rapid will be the march of intellect and the progress of improvement. The mail is the chief means by which intellectual light irradiates to the extremes of the republic. Stop it one day in seven, and you would retard one-seventh of the advancement of our country.

So far from stopping the mail on Sunday, the Committee would recommend the use of all reasonable means to give it a greater expedition and a greater extension. What would be the elevation of our country if every new conception could be made to strike every mind in the Union at the same time? It is not the distance of a Province or State from the seat of Government which endangers its separation; but it is the difficulty and infrequency of intercourse between them. Our mails reach Missouri and Arkansas in less time than they reached Kentucky and Ohio in the infancy of their settlements; and now, when there are three millions of people extending a thousand miles

west of the Alleghany, we hear less of discontent than when there were a few thousands scattered along their western base. To stop the mails one day in seven would be to thrust the whole Western country, and other distant parts of this Republic, one day's journey from the seat of Government.

But, were it expedient to put an end to the transmission of letters and newspapers on Sunday because it violates the law of God, have not the petitioners begun wrong in their efforts? If the arm of Government be necessary to compel men to respect and obey the laws of God, do not the State Governments possess infinitely more power in this respect? Let the petitioners turn to *them*, and see if they can induce the passage of laws to respect the observance of the Sabbath; for, if it be sinful for the mail to carry letters on Sunday, it must be equally sinful for individuals to write, carry, receive, or read them. It would seem to require that these acts should be made penal to complete the system. Traveling on business or recreation, except to and from church; all printing, carrying, receiving, and reading of newspapers; all conversations and social intercourse, except upon religious subjects, must necessarily be punished to suppress the evil. Would it not also follow, as an inevitable consequence, that every man, woman, and child should be compelled to attend meeting? And, as only one sect, in the opinion of some, can be deemed orthodox, must it not be determined by law which *that* is, and compel all to hear those teachers, and contribute to their support?

If minor punishments would not restrain the Jew, or the Sabbatarian, or the infidel, who believes Saturday to be the Sabbath, or disbelieves the whole, would not the same system require that we should resort to imprisonment, banishment, the rack, or the fagot, to force men to violate their own consciences, or compel them to listen to doctrines which they abhor? When the State governments shall have yielded to these measures, it will be time enough for Congress to declare that the rattling of the mail coaches shall no longer break the silence of this despotism.

It is the duty of this Government to afford *all* — to Jew or Gentile, pagan or Christian — the protection or advantages of our benignant institutions on *Sunday* as well as every day of the week. Although this Government will not convert itself into an ecclesiastical tribunal, it will practice upon the maxim laid down by the Founder of Christianity — that it is lawful to do *good* on the Sabbath day.

If the Almighty has set apart the first day of the week as time which man is bound to keep holy, and devote exclusively to his worship, would it not be more congenial to the precepts of Christians to appeal exclusively to the great Lawgiver of the universe to aid them in making men better — in correcting their practices by purifying their hearts? Government will protect them in their efforts. When they shall have so instructed the public mind, and awakened the consciences of individuals as to make them believe that it is a violation of God's law to carry the mail, open post-offices, or receive letters on Sunday, the evil of which they complain will cease of itself, without any exertion of the strong arm of the civil power. When man undertakes to become God's avenger, he becomes a demon. Driven by the frenzy of a religious zeal, he loses every gentle feeling, forgets the most sacred precepts of his creed, and becomes ferocious and unrelenting.

Our fathers did not wait to be oppressed when the mother country asserted and exercised an unconstitutional power over them. To have acquiesced in the tax of three pence upon a pound of tea would have led the way to the most cruel exactions; they took a bold stand against the principle, and liberty and independence was the result. The petitioners have not requested Congress to suppress Sunday mails upon the ground of political expediency, but because they violate the sanctity of the first day of the week.

This being the fact, the petitioners having indignantly disclaimed even the wish to unite politics and religion, may not the Committee reasonably cherish the hope that they will feel reconciled to its decision in the case; especially as it is also a fact that the counter-memorials, equally respectable, oppose the interference of Congress upon the ground that it would be legislating upon a religious subject, and therefore unconstitutional?

Resolved, That the Committee be discharged from the further consideration of the subject.

Thus stands this report of the national Congress upon Sunday legislation, a monument of our early liberality, statesmanship, and Christianity; but the 52d Congress surrendered those grand principles, which were then valued so highly, and which have made America the most liberal government in the world; gave the government into the hands of the churches; and so established the religious despotism here warned against and denounced.

WHAT EMINENT MEN HAVE SAID.

"EVERY man who conducts himself as a good citizen, is accountable alone to God for his religious faith, and should be protected in worshipping God according to the dictates of his own conscience." — *George Washington.*

"Almighty God hath created the mind free ; all attempts to influence it by temporal punishments or burdens, or by civil incapacitations, tend only to beget habits of hypocrisy and meanness, and are a departure from the plan of the holy Author of our religion, who, being Lord both of body and mind, yet chose not to propagate it by coercion on either, as was in his almighty power to do." — *Thomas Jefferson.*

"Religion is not in the purview of human government. Religion is essentially distinct from government and exempt from its cognizance. A connection between them is injurious to both." — *James Madison.*

"Leave the matter of religion to the family altar, the church, and the private school, supported entirely by private contribution. Keep the state and the church forever separate." — *U. S. Grant.*

"The whole history of the Christian religion shows that she is in far greater danger of being corrupted by the alliance of power than of being crushed by its opposition." — *Macaulay.*

"Many thus imagined that the doctrine of the gospel requires the support of the civil power. They know not that it advances without this power, and is often trammelled and enfeebled by it." — *D'Aubigne.*

"Secular power has proved a satanic gift to the church, and ecclesiastical power has proved an engine of tyranny in the hands of the state." — *Dr. Philip Schaff.*

"Proscription has no part nor lot in the modern government of the world. The stake, the gibbet, and the rack, thumb-screws, swords, and pillory, have no place among the machinery of civilization. Nature is diversified ; so are human faculties, beliefs, and practices. Essential freedom is the *right to differ*, and that right must be sacredly respected." — *John Clark Ridpath.*

"There are many who do not seem to be sensible that all violence in religion is irreligious, and that, whoever is wrong, the persecutor cannot be right." — *Thomas Clarke.*

"Among all the religious persecutions with which almost every page of modern history is stained, no victim ever suffered but for the violation of what government denominated the law of God." — *U. S. Senate Report, 1829.*

"Where legal enactment begins, moral suasion ends." — *Christian Union.*

"Liberty of conscience requires liberty of worship as its manifestation. To grant the former and to deny the latter is to imprison

conscience and to promote hypocrisy and infidelity. Religion is in its nature voluntary, and ceases to be religion in proportion as it is forced. God wants free worshippers, and no others." — *Dr. Philip Schaff.*

"The national jurisdiction is confined strictly to *this world*. There are good citizens of all religions and of no religion. The only thing the state, *as a state*, is interested in, or has any right to be interested in, is the matter of a man's behavior, as a citizen, in this world. It is none of the state's business to engage in the work of *saving souls* in the next world. If it is, then it ought to decide which religion is true. Then it should adopt it. Then it should devote its first and chief energies to the conversion of the rest of this world. But America will probably think twice before it will decide to go back to the eleventh century. The world's experiments in this direction are not over-encouraging." — *Rev. Dr. Minot J. Savage, in "Public Opinion," July 13, 1889.*

"It is not in the legitimate province of the legislature to determine what religion is true or what false. Our government is a civil and not a religious institution. Our Constitution recognizes in every person the right to choose his own religion, and to enjoy it freely, without molestation. The proper object of government is to protect all persons in the enjoyment of their civil as well as their religious rights, and not to determine for any whether they shall esteem one day above another, or esteem all days alike holy. What other nations call religious toleration, we call religious rights. They are not exercised in virtue of governmental indulgence, but as *rights* of which government cannot deprive any portion of citizens, however small. Despotism may invade those rights, but justice still confirms them." — *U. S. Senate Report, 1829.*

"The only proper objects of civil government are the happiness and protection of men in the present state of existence; the security of the life, liberty, and property of the citizen; and to restrain and encourage the virtuous by wholesome laws equally extended to every individual: but the duty that we owe to our Creator, and the manner of discharging it, can only be directed by reason and conviction, and is nowhere cognizable but at the tribunal of the universal Judge. To judge for ourselves, and to engage in the exercise of religion agreeably to the dictates of our own conscience, is an inalienable right, which, upon the principles on which the gospel was first propagated, and the reformation from popery carried on, can never be transferred to another." — *Presbytery of Hanover, Va., 1776.*

"The real security of Christianity is to be found in its benevolent morality; in its exquisite adaptation to the human heart; in the felicity with which its scheme accommodates itself to the capacity of every human intellect; in the consolation which it bears to the house of mourning; in the light with which it brightens the great mystery of the grave. To such a system it can bring no addition of dignity or of strength, that it is part and parcel of the common law. It is not now for the first time left to rely on the force of its own evidences and the attractions of its own beauty." — *Macaulay.*

"Should he [the ruler] *persecute* his obedient, loyal subjects, on any religious account, this is contrary to all law and right; and his doing so renders him unworthy of their confidence, and they must consider him not a *blessing* but a *plague*."—*Adam Clarke, on Romans 13.*

"What, then, is religious liberty?—It is that liberty or right which every man possesses to believe the gospel, to worship God, to profess and propagate religion, without human molestation. . . . Life, without this liberty, is, to a generous mind, a burden and a torment. What can be greater degradation to a rational being, endowed by his Creator with powers to think, judge, and decide for himself, than to become the property and slave of another, wearing the chains and fetters of the most infamous bondage?"—*Benjamin Brook.*

"It is hard for us to learn that the same right to hold and express honest convictions of truth which we so fondly claim for ourselves, we are in duty bound to extend to others who may differ from us however widely."—*Anon.*

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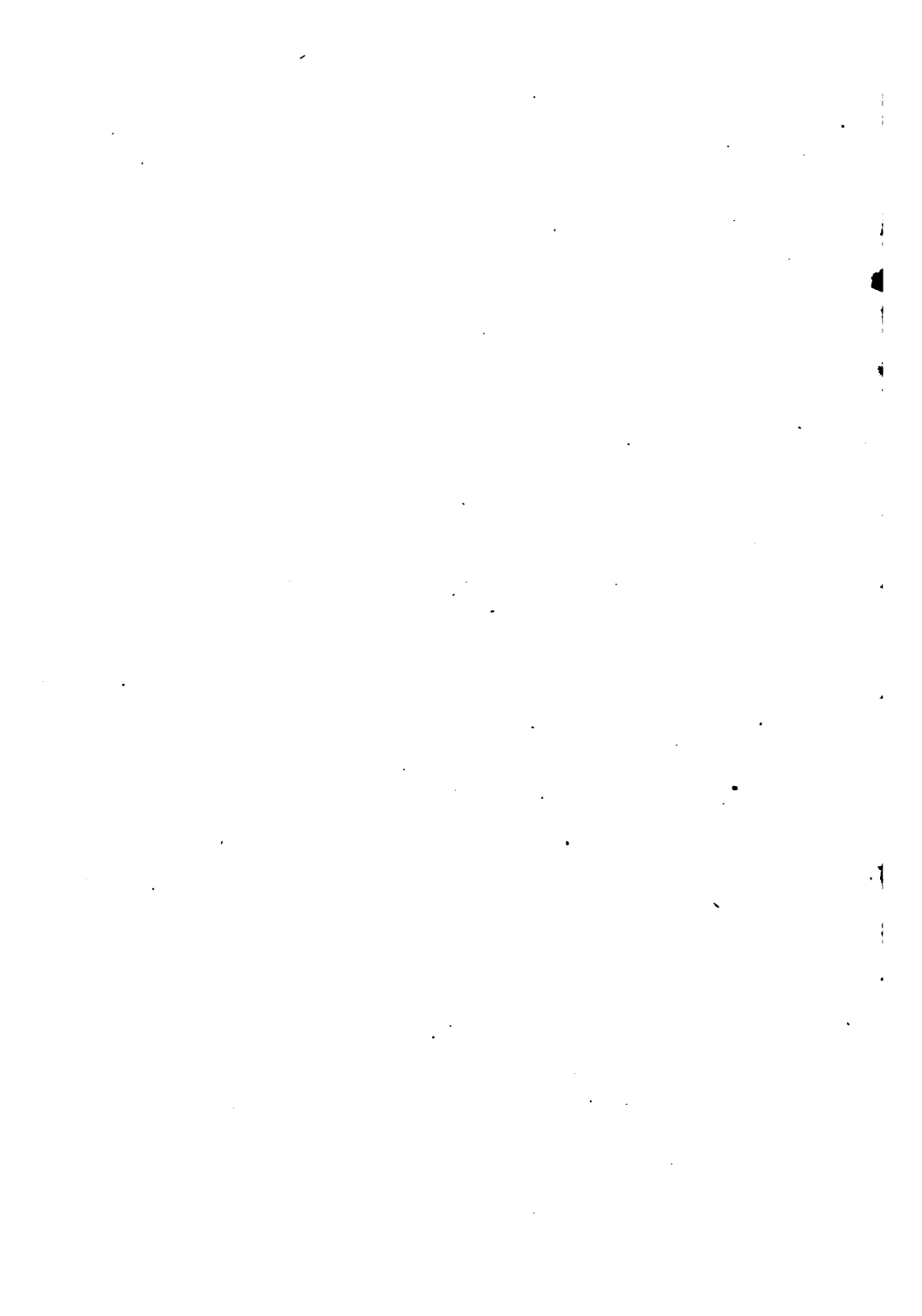
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THE LEGAL SUNDAY



THE LEGAL SUNDAY

ITS HISTORY AND CHARACTER

BY JAMES T. RINGGOLD

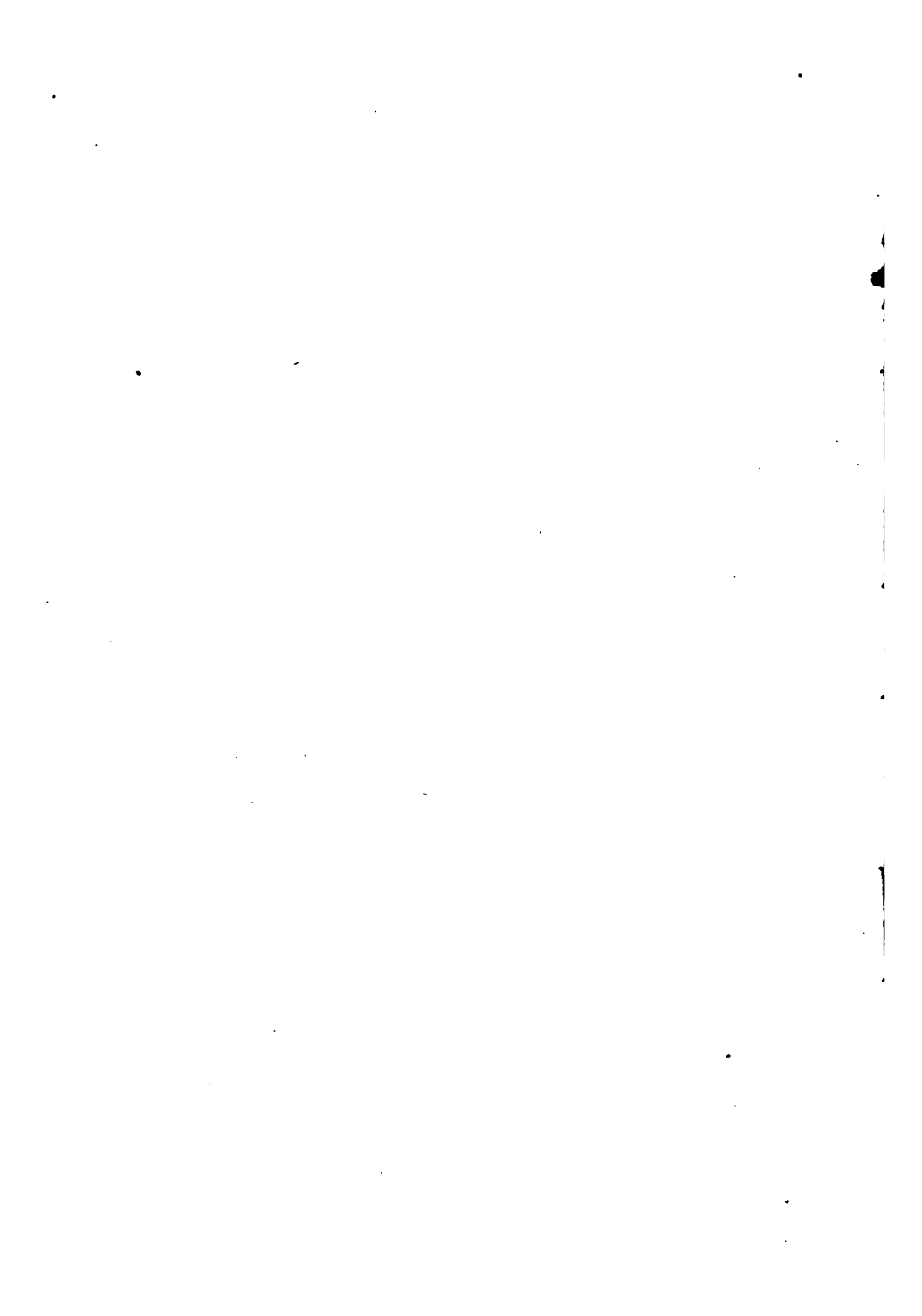
Of the Baltimore Bar

Author of "Law of Sunday;" "The Theory of Culpability;" "Fallacy
of the Civil Service Act;" Etc.

"SHALL we say, then, 'Woe to philosophism that destroyed religion'— what it called
'extinguishing the abomination'—'*ecraser l' infame*'? Woe rather to those who made
The Holy an abomination and extinguishable."—*Carlyle*.

INTERNATIONAL RELIGIOUS LIBERTY ASSOCIATION

1894



To My Friends,

**THE MEMBERS OF THE SEVENTH-DAY ADVENTIST CHURCH THROUGHOUT THE
WORLD:**

Those True Representatives of the Martyrs of Old,
Inheriting their Spirit, Tasting Somewhat of their Experiences;
Persecuted for Religion's Sake in "Free" and "Christian" America,
As Were Their Prototypes in Despotic and Pagan Rome;
Like Them Hesitating not in the Choice between
"Diana and Christ;"
Yet when Reviled, Reviling not again;
May They yet, like Them, Make History; and by their
Firmness, their Patience,
Above all by the Example of their Pure and Beautiful Lives,
Bring about the Abandonment of Pagan Practices and Pagan Modes
of Thought in all Christian Lands.

TO YOU

Seventh-day Adventists, this Work is Dedicated with the assurance that
this world can offer no greater reward of endeavor, no higher
honor for the writer, than the privilege of calling you

"MY FRIENDS."

PUBLISHERS' PREFACE.

THE question of Sunday laws and their enforcement, has occupied much of the attention of governments ever since the earlier years of the fourth century ; and in our day has become one of the leading questions not only of the United States but of the world. And it is yet to occupy a larger place in the attention of the United States and of the world.

Many books have been written upon the question of Sunday and its observance. Much has been said by the clergy, by the lawyers, by the legislatures, and by the courts, upon the question of Sunday laws and their enforcement. Until very recently, however, there seems to have been no very careful inquiry into the real merits of the case of the legal Sunday. From the days of Roger Williams until very lately, there has been no open challenge of the right of the legal Sunday even to exist. Yet this is the only ground that can be successfully or logically maintained upon the question. And that this ground is successfully and logically maintained, upon Christian, constitutional, and legal principles, in this book, will be clear to every reader of the book.

Merely as a matter of research, the history and character of the legal Sunday is an interesting study, and especially so to American citizens. But since the Sunday has obtained the legal recognition of the government of the United States as an element in "the salvation of the nation," this subject is one of double interest and importance to every citizen of the United States.

In a government founded in the natural rights of mankind ; with these rights carefully guarded by a written Con-

stitution ; with that Constitution positively prohibiting any recognition of any religion on the part of the government, it is well to know how Sunday secured a standing in a place which it was prohibited from entering at all, and how it is maintained in the place and position which it has secured.

Upon the subject of Sunday in legislation and in law, we think that "The Legal Sunday — Its History and Character" leaves no point untouched and no question unsolved. Fully satisfied that the book is needed, and knowing that it well deserves to be read by every one who would be informed upon the subject, it is confidently sent forth by

THE PUBLISHERS.

AUTHOR'S PREFACE.

SEVERAL years ago the present writer published, through Linn & Co., of Jersey City, a treatise on "The Law of Sunday." The work was mainly technical, and intended for the use of the legal profession. The present volume is the result of friendly suggestions that a popular essay on the same subject would be a timely contribution to the cause of religious equality. An endeavor is here made to embrace every aspect of the question, and to urge every objection to Sunday laws as well as to refute every argument by which they have been or may conceivably be defended.

The book is dedicated to the members of the Seventh-day Adventist Church. It may be well to observe that the author is not himself of that communion. He is simply one who has learned through intercourse with its leading men, as well as with its "rank and file," to admire and esteem them all most highly.

Indeed, it seems impossible that any candid person should ponder the character and history of this remarkable people without being penetrated with admiration for the exceeding purity and gentleness of their lives, and being struck by the extraordinary analogy which they present, both in this regard, and in their religious experiences, to the early Christian martyrs.

For the Seventh-day Adventists keep "the Sabbath" as their weekly sacred day, and they believe that they are divinely commanded to work on the other six days of the week; and they maintain that, as American citizens, they are of right entitled to work when and where they please, so

long as their work does not physically disturb others ; and by no means because they work on Sunday, but solely and simply because they hold it to be their duty and assert it to be their right so to do, they are, to the infinite shame of Tennessee and Maryland and other States, and to the everlasting disgrace of this alleged free country and this nineteenth century of alleged enlightenment, persecuted by mobs, as well as under the forms of law ; their meeting-places are destroyed, their preachers are stoned and threatened with revolvers, and their members are cast into jail according to the provisions of that unspeakable infamy of the Cromwellian Church Militant, whereby Sunday idleness has been made a civil duty.

Will the Seventh-day Adventists "make history," as their prototypes did of old? Will their persistent and unhesitating choice between "Diana and Christ" profitably compel the attention of those who lead public opinion and mould it into laws to the anomaly of the existence in free America of any statute which is simply the embodiment of a religious dogma, and which *can* be used by one sect to persecute another, so that there shall at last arise in every State, some prophet bold enough to propose, and strong enough to carry, the repeal of the Sunday law? And, meantime, will the patient endurance, the "sweet reasonableness," the martyr spirit of those who when they are reviled revile not again, so prevail against the animosity of their neighbors, that very shame shall extinguish the ardor of "Christian" mobs, and public officials ; and the Sunday laws, though not yet repealed, shall be permitted to lapse into "innocuous desuetude?" Well, let us hope for each and all of these things.

It is a great and good service which the Seventh-day Adventists have done to our country and generation in exposing the hollowness of the pretense that religious equality exists among us, and that we have abolished the union of Church and State, in demonstrating that the spirit of

religious persecution is still strong, and that a State religion is still recognized in America. But this does not exhaust the debt we owe to these people.

Their church has given birth to an organization which, by reason of the magnificence of its purpose and the unwavering consistency of its methods, challenges the admiration and commands the reverence of every right-thinking man. That organization is called the "International Religious Liberty Association." Its purpose is, *in the name of Christ*, to effect the total separation of the Christian church everywhere from the State. Although this total separation was the very corner-stone of the Master's teaching, it is a melancholy fact that his followers availed themselves of the very first opportunity they found to unite with the civil power, and to possess themselves of that sword which Peter was commanded to "put up again into his place." And from the days of Constantine to this day, no Christian denomination has ever been willing to go without the assistance of "the police power" when it could be had. Every new sect which has arisen has been keenly alive to the dangers, nay the blasphemy, of a union between the State and any other sect; but every sect has considered it part of the divine purpose that there should be a union between the State and itself. Whatever has been effected in the direction of undoing the evil work done by Constantine and the bishops of 313-325, and "secularizing" government, has been effected through the influence and the labors of "infidels," "agnostics," and the like. And now comes the "International Religious Liberty Association" composed in part, but by no means altogether, of Seventh-day Adventists, and proposes to take from infidels and agnostics the glory and honor of rendering this great service to mankind. It declares that these men are fighting with weapons taken from the Master's camp, after they were cast aside in scorn by his unworthy followers, though he expressly warned them that his cause

could be won with none others. It asserts that he himself came to tell men that true religion could not utilize physical force, and therefore could never come into alliance with the State, which is simply the embodiment of the physical force of the community; that true religion could not persecute, and that no church could desire or utilize a union with the State for any other purpose than the purpose of persecution.

If it be melancholy to reflect that during so many centuries it has been left to non-Christians to defend, and enforce by slow degrees and still imperfectly, these simple Christian truths while professed Christians have uniformly denied them in theory and defied them in practice, surely it is a great and glorious thing to know that we have among us, now, a body of earnest and consistent men, determined at least that the Master shall no longer be misrepresented, and that his doctrines shall no longer be used by his enemies to discredit him before the people, and to keep him out of his kingdom, — the hearts and minds of men. The Seventh-day Adventist Church and the International Religious Liberty Association cannot now grow too fast nor wax too strong for the good of the race and especially of these United States—the one representing a pure and beautiful religion, whose reality and truth are best attested by its effective work on character and conduct, the other at once the embodiment of the Christian and American ideal, standing for the total separation from the State of every church because such separation is a fundamental and vital principle of American politics, and for the total separation from the State of every church calling itself Christian for the additional reason that unless so separated it is falsely and blasphemously so calling itself.

This is an humble attempt to aid in the work of the International Religious Liberty Association.

J. T. R.

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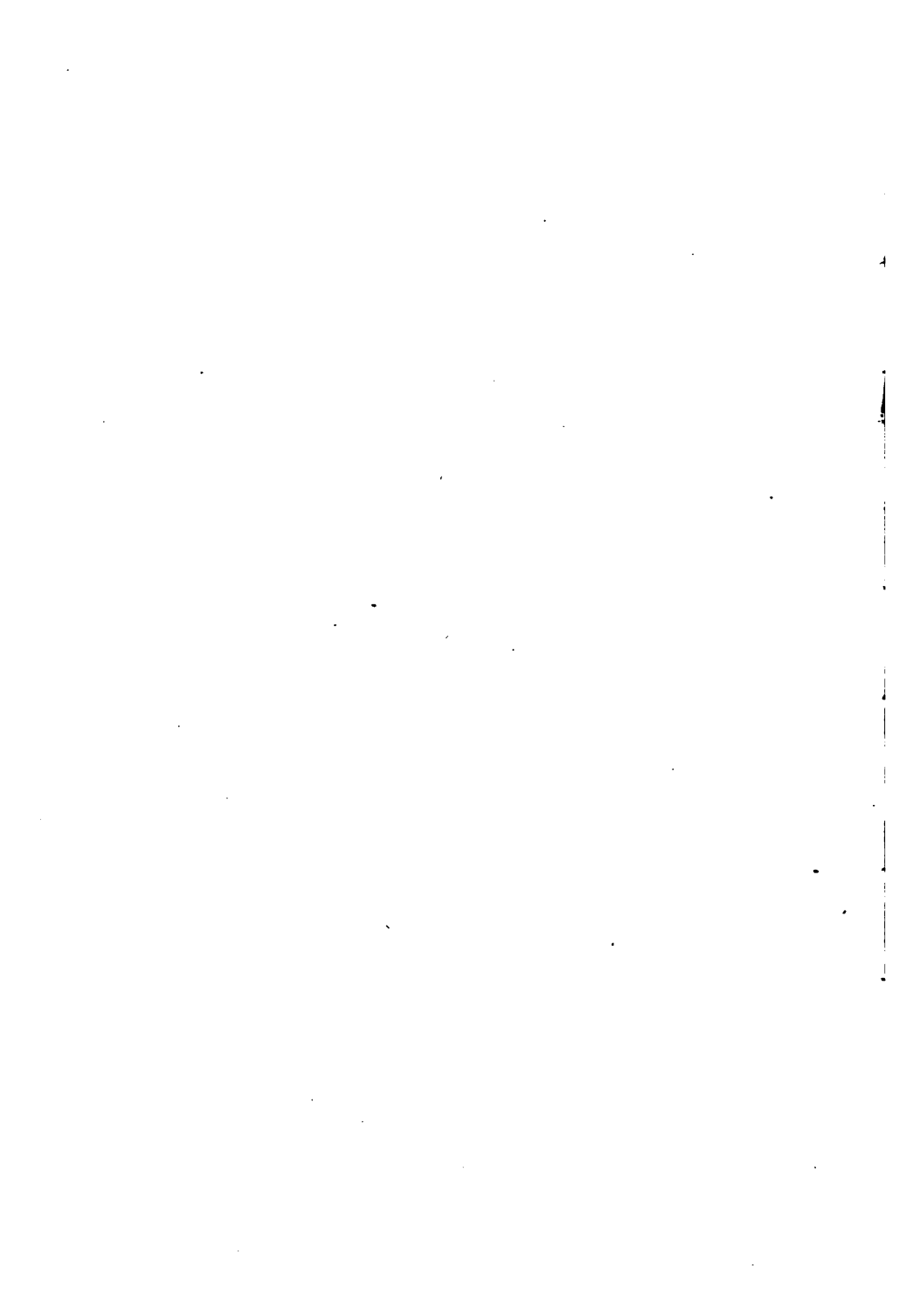
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PART I.

THE HISTORICAL ASPECT OF THE QUESTION.

OBJECTIONS TO SUNDAY LAWS ON ACCOUNT OF THEIR ORIGIN. THEY
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REPUBLIC BY THE NEW ENGLAND BROWNISTS.



CHAPTER I.

The Importance Attached to Belief by Popular Christianity Gave Rise to the Spirit of Persecution in that System — The Strange Assumption that Belief could be Compelled, upon which such Persecution was Based — The Motive of Persecution by Christians.

CHRISTIANITY is essentially and altogether of faith, for Jesus Christ is both "the Author and Finisher of our faith;" and it is written, "Whatsoever is not of faith is sin."¹ It being true that whatsoever is not of faith is sin, and as Jesus Christ was manifested to take away our sins, it is evident that the salvation offered by Christianity and wrought by Jesus Christ is wholly of faith. And as he is the Author and Finisher even of the faith, as he himself is the giver of the faith which saves from sin, it is therefore and further evident that the salvation offered by Christianity and wrought by Jesus Christ is by grace through faith. And so it is written: "By grace are ye saved through faith; and *that not of yourselves: IT IS THE GIFT OF GOD.*"²

In this truth, that faith is not of ourselves, but is the gift of God — in this, lies the distinction between Christianity and all other religions. And even more than this; in this truth lies the distinction between the true and false Christianity. True Christianity is not a creed, it is a life; not a body of doctrines formulated by men, but the expression of the life of God in actions of men. This is the difference between "the faith of Jesus Christ," and "the faith of the creed;" between true Christianity and false Christian-

¹ Rom. 14 : 24.

² Eph. 2 : 8.

ity; between the true religion and false religions of all kinds.

The true faith, the faith of Jesus Christ, being the gift of God, bears in itself, and brings to him who exercises it, the divine life, the divine virtue, and the divine power. It brings to men the divine life to renew the soul, the divine virtue to cleanse from sin, the divine power to keep the renewed soul in the way of righteousness, and the divine energy to produce good works, even the works of God. "For in Christ Jesus neither circumcision availeth anything nor uncircumcision; but faith which worketh by love"¹—not faith *and* works, but faith *which* works. "Then said they unto him, What shall we do, that we might work the works of God? Jesus answered and said unto them, *This* is the *work* of God, *that ye believe on him* whom he hath sent."² This faith draws the soul to God, subdues the heart to him, and moulds the whole life in the image of Jesus.

This faith is exercised, all its gifts are received, and all its fruits are manifested, at the free choice of the individual himself alone, before Him who is the Author and the Finisher of the faith itself. For it is written, "If any man hear my words, and believe not, I judge [condemn] him not: for I came not to judge the world, but to save the world."³ Thus the Author of the true faith, of the faith of Jesus Christ, leaves every man absolutely free to accept or reject, to believe or not to believe his word. This is true Christianity. God is the Author of freedom of choice and freedom of thought in religion, and whoever in anything or in any degree whatever would invade this perfect freedom, thereby and therein supplants God, and Jesus Christ whom he hath sent.

There is another kind of belief, a false faith, which is from the side of man himself, otherwise called "the faith of the creed." This sort of faith is essentially human, for the

¹ Gal. 5: 6.

² John 6: 29, 30.

³ *Id.* 12: 47.

creed is only an invention of men. The creed being wholly an invention of men, and therefore only human, the faith of the creed is but the same. Being only human, it is utterly impotent to bring to men any shadow of virtue or power to take away sin or to renew the life; and the only seeming virtue even that it can possibly have is but a form of godliness, a mere outward profession. This is false Christianity wherever found.

By its extreme conception of the importance of a man's belief of the creed to his eternal welfare, this false yet popular Christianity was led into the requirement of such belief, elaborate and complicated beyond all precedent. If one may suffer eternally by reason of his wrong belief on one subject connected with the "hereafter," may he not probably so suffer in consequence of his wrong belief on some other subject in the same connection? Obviously, the only way to "save" him with absolute certainty was to provide him with the right belief on every point that could be imagined as possible to arise. This amiable desire gave birth to the long and mysterious "creeds," for the sake of which those who misunderstood them in one way plundered and shot and burned and ravished those who misunderstood them in another way, for hundreds and hundreds of years; for whose sake John Huss suffered, and Calvin burnt Servetus alive, and the Puritans murdered the "witches" and Quakers.

Belief in the creed was held to be essential to salvation. But many could not be persuaded to believe the things laid down in the creed, nor even to say that they believed them. In dealing with such persons, the end was great enough to justify any means. The adaptation of the means to the end was not seriously questioned. The propagation of the "faith" was deliberately undertaken on the assumption that it could be shot into a man, or burnt into him, or racked into him, and it was conducted on that hypothesis for hundreds of years; and this notion still pervades popu-

lar Christianity, induces silence in the pulpit in return for contributions, and calls for armed troops to keep the Columbian Exposition closed on "the Christian Sabbath," *et id omne genus*.

Such a conception of the psychological nature of belief would be wildly grotesque if the results had not been so full of misery to the race. The apparently fundamental principles that it is impossible to convince a man of any proposition by torturing him, since the reasoning faculty is not controlled by the body, but the reverse; that we can never really know what a man believes in the matter of religion, because we have no possible way of ascertaining this except from his assertions, and men may lie on this subject as on others; that persons capable of adhering to an abstraction in the face of a horrible death are just the manly, courageous, faithful citizens most desirable in any community, while acquiescence extorted by pain or terror is not only to be suspected of insincerity, but argues a weakling, if not a hypocrite, and in any event a lack of the highest attributes of human nature,— such simple truths as these were utterly beyond the grasp of intellects capable of persecuting for conscience' sake.

We may admit that Charlemagne and other "Christian" princes disguised the greed of power under the cloak of religious zeal, and waged destructive wars against unoffending nations upon the pretense of anxiety for their salvation. But a great deal of "Christian" persecution was carried on in times of peace and within the domains of the civil authority which directed it; and its victims were often men who were not suspected of any disposition to defy or ignore the government. Political aggrandizement could form no inducement for the proceedings against such persons. The motive must be sought elsewhere. No doubt in many cases personal animosity, greed, lust, made their baleful influence felt; and perhaps the proportion of such cases would be larger, could we sift the evidence at this late day. But con-

ceding to such motives their utmost force, the fact remains that they could not have thus manifested themselves if the ostensible purpose of the deeds had not been one which commended itself to the public conscience of the times.

No candid student of history will deny that many of those who actually directed these persecutions, as well as thousands who applauded them, were moved by sincere and disinterested ideas of duty. Their hearts seem hard and cruel, but, fixed immovably at their very roots, lay a profound and perfectly honest conviction that the fire and the torture were necessary for the good of the sufferer, and that the present pain was a means, and the only means, in the last resort, of preserving him from a far worse fate in the other world. Many a priest would sooner have gone to the stake himself than have neglected the duty of holding the crucifix close to the victim's lips throughout his agony, if haply the spirit might move him at any instant to kiss it, and thereby accomplish his salvation. It was believed that if he were so moved and no crucifix were near, then God would require his soul of the priest whose business it was to supply his want.

It is hard to know which to pity most,—the poor heretic whose body is seen in the pictures bound fast to the stake, or the shaven and cowed figure standing near by, watching with conscientious eagerness every movement of his mouth and head, and ready to assist the sufferer at any instant, even at the risk of setting himself on fire, to give the saving kiss to the emblem he carries in the air.

When we remember what that emblem was, Whose image it bore, and what an awful scene it commemorated, we see on one side of the picture a human soul so humiliated, so blackened, so tortured, twisted, beaten into such dissemblance of its Creator, that the spectacle of the burning body on the other side, from whose eyes a spirit looks up with a rapture that flames cannot quench, but only consummate, is a relief to the contemplation.

CHAPTER II.

The Spirit of Persecution could only find Expression through a Union of Church and State — Origin, Persistence, and Development of the Idea of Christ's Kingdom among the Early Christians — It brought them into Conflict with Roman Authority — Despite the Master's Express Warnings and Commands the Union of the Christian Church with the State was Consummated under the Pagan Constantine, and the First Fruits of this Great Apostasy was The First Sunday Law — Sunday the Chief Feast-Day of Mithraicism.

WHATEVER the motives which might prompt towards religious persecution, it is evident that they could never find adequate expression in action save through a union of Church and State. Social ostracism, the form of conspiracy we now know as the "boycott," and personal assaults, doubtless attested at times the zeal of one set of people for the "conversion" of the other. But real, effective persecution could not be carried on save with the State's strong arm.

This coupling of the importance of belief with the strange notion that it could be compelled by the application of physical force, thus inevitably brought forth its fruit in the attempt, which was begun very early in the history of Christianity and has never yet been abandoned, to effect a union of the Christian Church and the State, that is, to set up a kingdom of this world for the Master, in defiance of his will plainly and repeatedly declared.

The Messianic prophecies of the Jews, however spiritual their inner and true significance, were frequently couched in terms suggestive of earthly exaltation and military glory ;

and in this spirit they were all received and understood by those to whom they were addressed. Exceptional phrases here and there, irreconcilable with any reference to material things, were either ignored or misconstrued. The people in their depression looked for a Prince who would by armed force overthrow their enemies and re-establish their ancient state. It could hardly be otherwise. The masses of the Palestinian Jews never appreciated their wonderful mission as the custodians and trustees of spiritual truth for the benefit of all mankind. They were essentially the most self-contained and least cosmopolitan of peoples. Exclusiveness was the very corner-stone of their polity. To have entered that land and possessed it was to them the demonstration of their favor with Jehovah. As their political power was gradually beaten down, and the prophets proclaimed the coming "Redeemer," what could they understand him to be, but one who should restore to the chosen people the physical power and external glories of David's reign?

The first converts to the Master's teaching, the disciples themselves, were full of this conception. When he spoke of his "kingdom," no number of assurances that it was "not of this world," could eradicate from their minds the fixed impression that, sooner or later, he would set about the establishment of a temporal government in which they would occupy high and lucrative offices. That such was his design was the belief of his enemies and friends alike. Nor need it be doubted that while the first sought to "tempt" him to his destruction by inducing him to utter treasonable words, some of the second sort stood around, hoping from different motives that the experiment might succeed—confident that an expression of hostility to Cæsar would be immediately followed by the manifestation of a divine power which would destroy Cæsar's rule and scatter his forces. The disciples understood at the crucifixion that the time for establishing the new government had not arrived; they realized after the

ascension that the occasion was again postponed. But still the "second advent" remained associated in their minds with deeds and triumphs like those of Joshua and of Gideon.

The first Gentile converts were strongly dominated by the same idea, merely giving it a wider application. The new kingdom was to have for its princes and rulers not Jews only but the elect of every nation. But they, too, looked for its establishment by fire and sword. Moreover they were inclined to accept, as applying to their own day, the assurance that "this generation shall not pass away till all things be fulfilled." And they were generally agreed that the "return" would be on some weekly anniversary of the resurrection, and that it would occur during the hours of darkness, like the other mysterious phenomenon. And so for a long time the "congregations" used to meet at sunset every Saturday evening, when "the first day of the week" began according to Eastern computation, and to remain together till the dawn, "prepared to meet him."

The union of Church and State among the Romans was very complete. But, as the Romans had no creed, they were not naturally persecutors. They admitted, nay, adopted, into their pantheon, the gods of all conquered nations, identifying them usually, but not necessarily with the figures of their own mythology.¹ In view of these facts the relentless cruelty with which they treated the early Christians has puzzled many historians. The first pagan persecution was that which followed the great fire at Rome in Nero's reign.² The unanimity of public opinion in ascribing this

¹ So liberal was Romulus in this regard that a learned writer has said that the founder of Rome made his city, so to speak, "an asylum for gods, as well as men."—*M. l'Abbé Grævè, Mem. Acad. des Inscr., etc., Vol. iv, p. 161.*

² It has been asserted that Nero set fire to Rome and charged the Christians with being responsible for the great conflagration, in order to divert suspicion from himself. There is little or no foundation for this story. But, assuming it to be true, the questions remain: Why did he select the Christians for his scape-goats? What had they done which suggested and justified his reliance on the success of such a subterfuge? Why were they, at such an early stage of their history, "odio humani generis convicti,"—"believed to be guilty (without evidence) through the hatred they had inspired in the

disaster to the Christians is remarkable. The extraordinary tortures inflicted by way of reprisal surprised the calmer observers among the Romans themselves.¹ What was the secret of an animosity so inconsistent with the whole spirit of the Roman civilization, and too, directed against a single sect?

An ingenious suggestion² is that it began with these nocturnal assemblages just mentioned. To such meetings the Romans always cherished a deep antipathy. They knew that in many cases they were the nurseries of vice and not infrequently the agencies of treason. It was the fixed policy of their civil administration to forbid them and to break them up at any cost. To this we may add that the character of the answers given by the Christians who were interrogated as to their purpose in gathering together at such unusual hours, were probably calculated to stimulate rather than allay the suspicions of the authorities. Scorning equivocation, proud of their name and expectations, their utterances were bold, if vague, and suggestive often of violent revolution. They met on Saturday nights to await the coming of somebody whom they called "a Prince" and "a Messiah." He was to come in glory and to reign with his chosen ones; he was to overthrow all principalities and powers, and to subdue all things under his feet.

Such language as this from men who met at night in secret places might well alarm the representatives of any government. And, if the Roman authorities attached a purely physical significance to these statements, and regarded the Christians as conspirators who were preserving and strengthening their organization while awaiting a signal from some central power to break out into open revolt, we must bear in mind that, as already observed, the Christians themselves held the same material view of the dispensation they

whole human race," as Tacitus vigorously puts it? See Gibbon's "Decline and Fall," chaps. xv and xvi; also the article "Christianity," in *Encyclopedia Britannica*.

¹ See Tacitus, *Annals* xv, 44.

² Made by Dr. David Irving in his "Observations on the Study of the Civil Law."

expected. And it was not long before they began to voluntarily preach and prophesy the overthrow of the existing order, and the subjugation of all things under the feet of a mighty conqueror who should destroy gods as well as emperors.¹ It is no wonder that all who were interested in the existing order of things learned to dread and hate a people whose chief delight it was to denounce that order and proclaim its imminent dissolution. Nor should we lose sight here of the "spirit of martyrdom," which influenced the early Christians so strongly as to make them not only willing but often anxious for torture and death. There was the crown of immortality, of eternal bliss, always before their eyes. And there was the psychological fact that the surest possible way to convert men to their opinions was to show themselves willing to suffer and die therefor.² They were firmly and rightly convinced that by their sufferings they were rendering the greatest service that could be rendered to the Master's cause, and that their reward was ever waiting to be enjoyed.

Again, the Christian system of settling their differences with each other before tribunals of their own,³ and avoiding the regular courts, lent color to the idea that they harbored unfriendly feelings toward the established order, and marked them as men indifferent to the ordinary obligations of allegiance. And there was yet another factor which doubtless

¹ Consult Milman's "History of Christianity," chap. vii. Extracts are there given from the writings of Christian authors openly predicting the speedy destruction of the Roman government and its replacement by a new and "Christian" system.

² An ingenious free-thinker, Count Volney, has found fault with the psychological fact here mentioned, and has pointed out that a man's preference to be tortured to death rather than cease to proclaim that two and two make five would not afford the slightest evidence that two and two do make five. But this is confounding matters of demonstration with matters of faith. Notwithstanding the extremest claims of agnosticism, men of all shades of belief and no-belief hold fast to many things which, from their very nature, can never be the subjects of demonstration. And as long as the human mind retains its present constitution as to these things, the masses will be more influenced by the intensity of conviction which they discern in the advocates of a particular doctrine than by any number of cold appeals to their reasoning faculties.

³ See 1 Cor. : 6.

played its full part in provoking the hostility of the civil power. The various forms of paganism could exist side by side. But Christianity, with its proselyting spirit, made warfare on them all. The priests of every cult found their credit and livings in danger. The union of religion and the State gave them opportunity, the common peril supplied the motive, to urge on a destructive warfare against this new, strange enemy, while laymen who found themselves unable to accept the Christian doctrine were not propitiated by the warnings of their future fate, often no doubt administered by members of their own households, whose authority to pronounce on such a matter for them they were very far from recognizing.

But, whatever the early Christians anticipated that they would at some time or other be called upon to do, however far they were prepared to go on the eventful day when the Master should come again in glory and place himself at their head,—*not one of them dreamed of committing an overt act till his command should be given.* It was for him to come and say in what manner and by what means his kingdom should be made one of this world. His faithful soldiers were ready to obey his orders, as soon as given. Without orders, good soldiers do not move. Meantime, their duty, as they understood it, was to preach his name to others, to maintain their weekly meetings, and to organize in order to work more effectively in his cause.

In this way for many years the Master's words were fulfilled. The Ruler whose kingdom was not of this world was by soft persuasion, by "sweet reasonableness," above all by the example of pure and gentle lives, drawing all men unto him. But the weakness of human nature could not be content with this spiritual conquest. Just as the first disciples mused mistakenly on the time when they should be clothed in purple and fine linen, and fare sumptuously every day, and be the founders of a new race of nobility, so likewise

many of their successors forever hankered after the flesh-pots of Egypt. Especially did bishops and presbyters, having the authority, yearn for the pomp and circumstance of the pagan priests. Administering to poor congregations with precarious salaries, they envied the richly-compensated servitors of the temples, with their contributions from the state treasury, supplemented by the costly gifts of hundreds who would affiliate with any communion that might be used as a means of social or political advancement.

The idea of establishing the Master's kingdom in this world, then, would not down. But the early principle that its establishment must await his personal direction and control was altogether lost sight of. Men began to ponder the establishment of such a kingdom *without the presence of the Sovereign*, its ordained Ruler. It was to be "made ready" for him against his coming; and till he should come, it was to be governed by its founders in his name; and they were to enjoy by means of its establishment such good things of earth as luxury without labor, and wealth, power, honor, and pre-eminence over their fellow-creatures.

There came a time when forces set in motion by the Master had subdued such numbers that it was possible to bring into play, forces which he had expressly repudiated; in other words, when so many had been peacefully brought to acknowledge him, that force could safely be invoked to extort that acknowledgement from others — in other words again, when Christianity had a following sufficient to command recognition as the religion of the State. As a matter of course, the instant that this was accomplished, it ceased to be the religion of the Master. The kingdom of this world was indeed established in his name, but it was established without the King.

And who was taken as his substitute? — The pagan Constantine. A man of consummate genius, and absolute insincerity; of no belief, but unbounded hypocrisy; of no honor,

yet of effeminate sensitiveness; without a conscience and without a God. The setting up of a kingdom of this world in the Master's name, was not merely an un-Christian, it was an anti-Christian act. It was done in very defiance of his express command. It was a linking of the spiritual with the material; a degradation of the divine institution which he had founded; a dragging of sacred things in the dust. It was pre-eminently fitting that such a man as Constantine should be the vicegerent of such a kingdom. There is hardly an attribute we can imagine as pertaining to the complete character of antichrist which was not developed in him to the fullest extent. He was therefore a most appropriate head of the Great Apostasy, and anti-Christian movement for a union of Church and State—the very creature to do in the Master's name what he had forbidden to be done.

That custom of the early Christians to meet at the beginning of Sunday, which exposed them to Roman suspicion and hostility, developed into a permanent and important part of their communal religious life. It was natural that those thus assembled should eat and drink together. And, when we consider the object of their assembling, that their meals should partake more or less of the character of a religious ceremony was no less inevitable. But there is no evidence that at first the notion of transferring the Sabbatical observance to Sunday was at all entertained. On the contrary, all the evidence as well as the lack of evidence, points to the conclusion that no idea of peculiar sanctity was attached to the first day of the week by these original Christians, and that after the hour had passed when the expected event was looked for to occur, they betook themselves to their homes and went about their work or business as usual. Yet no doubt these Sunday meetings helped to smooth the way for the final substitution of Sunday for the Sabbath, to which another motive now to be mentioned also contributed.

Besides their nocturnal assemblies, another considerable cause of Christian unpopularity was the Hebraic origin of the religion. Among the peoples subdued by the Roman arms the Jews were conspicuous for the vigor and tenacity of their resistance. A corresponding hostility was excited in the minds of the conquerors, which Jewish exclusiveness and want of deference to Roman arrogance did not tend to diminish. The Romans in their judgment visited the sins of the Jews upon the Christians. And as Christianity spread among the Gentiles, this identification of the two appears to have been felt as an obstacle to its progress, and accounts for the gradual substitution of Sunday services for the Saturday night vigils, the total abandonment of the Scriptural Sabbath, and the readiness of the Christians to adopt the sacred day of the sun-worshippers as their own. Some of the early Christian writers, indeed, betray a disposition to represent Christianity as a refined, spiritualized, sublimated version of the religion of Mithra. It is curious to find these men, for the sake of popularity, and in order to commend their cause to the minds of others, willing to be confused with sun-worshippers in the minds of the superficial, while strenuously endeavoring — as witness the frequent decrees of councils against “Judaizing” by the observance of the Sabbath — to emphasize the completeness of their separation from that race to which their Founder belonged, and whose Sabbath was the only one he knew.

It has been observed that the anti-Christian movement toward a union of Church and State was the result of the un-Christian lust of the clergy after wealth and honor. Of course as soon as that union was effected, they began to use it for their own worldly aggrandizement. Now the collection-box is, so to speak, the center or cog-wheel of the machinery for clerical aggrandizement. But, in order that people may put their money in the collection-box, they must first go to church. It was perceived that to force them to go

to church would be a difficult and costly experiment of police. Yet something might obviously be accomplished by calling them off from their regular occupations. The enforced idleness would naturally lead to contemplation, and contemplation might suggest that one way of "killing the time" was to go to church. Moreover, the Jews had set the fashion for all time of the observance of a weekly sacred day. True, with the Jews there was no such indirect purpose of driving people to church and into the presence of the collection-box, on which last their clergy were not dependent. The Hebrew Sabbath was quite as much a day of rest for priests as for the people generally. It was "set apart" with no such sinister purpose as Sunday has been set apart, but in plain good-faith, that all might pause in the race of life to ponder the mystery of a creative and protective Deity.¹

When the union of Church and State was accomplished under Constantine, almost its first fruit was the first Sunday law (A. D. 321). This commanded that judges and people of the cities and artificers should rest, but specially provided that agricultural labor might be prosecuted as on other days, "lest by neglect of opportunity, the bounty granted by divine foresight be lost." The name given to the day in this famous edict is remarkable, and sheds a flood of light on the character of him who promulgated it, and of those who asked him for it. The day is called "the venerable day of the sun."

A new, exalted, and transcendental type of the ancient sun-worship contended with Christianity during three hundred years for the mastery of the European mind. Constantine had no religion; but he was, like many other men of powerful minds, deeply tinctured with superstition. And of the superstition of sun-worship, or Mithraicism, as of every

¹ But it seems that this "spiritual" purpose of the Sabbath, while it is distinctly set forth in one of the versions of the fourth commandment, was little regarded by the Jews; and that the national and historical aspect of the anniversary, which concerned them particularly, gave it its chief importance in their eyes.

other superstition of his day, he had imbibed a goodly share. Moreover, he was subtle and politic in a high degree, and it was his practice to play one of the contending parties, Christian and pagan, against the other, and thus preserve a peaceful balance of forces in his empire. Now, "the venerable day of the sun" was the great sacred day of the Mithraicists; and to "set it apart" under the name by which they knew and "observed" it, to bestow this especial state recognition on their holy day could not but be accepted by them as a great compliment to their religion and as an official acknowledgement, if not of its sole verity, at least of its superiority to all rival cults. The use of this phrase, then, was characteristic of the wily Constantine. But what shall we say of those who, for the honor of the Master, would stoop to such hypocrisy? What of those who were willing to have the day they professed to know as "the day of the Lord" honored through their instrumentality as "the venerable day of the sun"? What of those who dressed Christ in the robes of Mithra? Shall they not one day stand with those who robed him in purple and put on him a crown of thorns, and spat in his face?¹

¹ The brutal pagan, Constantine, granted religious *toleration* to his Christian subjects soon after his alleged conversion. And later, he gave them the first Sunday law, as stated in the text, in the name of Mithra. Says Mr. Milman, "The rescript commanding the celebration of the Christian Sabbath [*sic*] bears no allusion to its peculiar sanctity as a Christian institution. *It is the day of the sun which is to be observed by the general veneration.* . . . The believer in the new paganism, of which the solar worship was the characteristic, might acquiesce without scruple in the sanctity of the first day of the week."— "*History of Christianity*," book iii, chap. i.

Concerning another incident which marked the Great Apostasy of the union of the Christian Church with the pagan State, Mr. Milman speaks as follows: "Constantine immediately commanded the famous labarum to be made, the labarum which for a long time was borne at the head of the imperial armies, and venerated as a sacred relic at Constantinople. The shaft of this celebrated standard was cased with gold; above the transverse beam which formed the cross was wrought in a golden crown the monogram, or rather the device of two letters which signified the name of Christ. And so for the first time the meek and peaceful Jesus became a god of battle, and the cross, the holy sign of Christian redemption, a banner of bloody strife."

In the paragraph following this description of the labarum, Mr. Milman observes of Constantine's alleged conversion to Christianity: "The irreconcilable incongruity between the symbol of universal peace and the horrors of war, in my judgment, is conclusive

However they shall be finally judged, in their indifference to the means whereby their ends might be attained ; in their willingness, nay eagerness, to adopt any subterfuge, to avail themselves of any false pretense, to crawl and wriggle to their goal through any by-way, however dark and foul ; the advocates of this first Sunday law are in no whit distinguished from those who prate to-day of "a secular Sunday," and "police regulations," and "sanitary legislation," in order to force a dogma of their religion down the throats of "free" Americans. Recently, Mrs. Josephine C. Bateham who, on behalf of the "Sunday-law combination" in the United States, was asking Congress to incorporate the dogma of Sunday idleness into a Federal statute, remarked that the phraseology of her measure would better be altered in one place, "in order that it may not have the *appearance* of

against the miraculous or supernatural character of the transaction." And in a foot-note to this paragraph he adds : "I was agreeably surprised to find that Mosheim concurred in these sentiments, for which I will readily encounter the charge of Quakerism." Yet Mr. Milman in the next breath speaks of "the admission of Christianity not merely as a *controlling power and the most effective auxiliary of civil government*" (*an office not unbecoming its divine origin*) [sic]. Of course there is a confusion of ideas here. A "controlling power" cannot, strictly speaking, be "auxiliary" to any other power. But what Mr. Milman means is, in plain English, that a bargain whereby, on the one hand, the civil government was to force the people into external deference to certain dogmas, and compliance with certain ceremonial observances, as the same might be "settled" by councils from time to time ; and, on the other hand, the church was to frighten the people by threats of everlasting fire and brimstone, into doing anything that the civil government might order, — that such a bargain as that was "not unbecoming" the divine origin of the Christian religion ! On this point one need not apologize for preferring the authority of the Founder of Christianity to that of Dean Milman. But these last quotations have been introduced here mainly to show the extraordinary influence of the *zeitgeist*, or time-spirit, on character or abilities of very high order, cultivated to the utmost,—on such a character, if Dean Milman discerned the truth of the matter, yet lacked the manliness to write it down ; on such abilities, if Dean Milman did not see that the great blasphemy of making the Master's religion a "controlling power" and "effective auxiliary" of "civil government" necessarily included the lesser blasphemy of converting "the meek and peaceful Jesus" into "a god of battle," since battles are liable at any moment to become the business of civil government, and therefore the business of any "power," whether "controlling," or "auxiliary" to such a government ; if he did not see that a Church united with the State must respond to the call to bless the banners that symbolize death, and give thanks for massacres and devastation, since this is part of the very business she is "admitted" as a department of the government to do ; — if he did not see, in short, that repeating rifles and Gatling guns are quite appropriate weapons in the hands of that Christianity which finds the wielding of the policeman's club "an office not unbecoming its divine origin."

what all Americans object to, a union of Church and State." The idea was to accomplish the reality and to delude "all Americans" by the false appearance. So the anti-Christian conspirators with the unworthy Constantine doubtless observed to him and to each other: "Let us call it 'the venerable day of the sun,' that it may not have the appearance of what all these pagans would object to, a union of the Christian Church with the State."

After Constantine's edict, till the rise of Brownism, Sunday, while it was generally observed, lost some of its prominence, through the adoption of many other feasts, as well as many fast days, by the Church. And such observance as was given it, was unquestionably more like that of Catholic countries to-day than like the present American practice.¹

¹ At different times, however, decrees of council, etc., were passed, referring to the observance of Sunday. These will be found, together with Acts of Parliament, State laws, etc., in "Sunday: Legal Aspects of the First Day of the Week."

CHAPTER III.

The Union of Church and State, Signalized by the Promulgation of the First Sunday Law, Gave Free Rein to the Spirit of Persecution — The Theoretical Right whereof was Denied by no Early Sect — The Discovery of " Toleration ;" but beyond mere " Toleration " the Zeitgeist had not Moved when America was Discovered, nor when the English Colonies were Planted in North America — Distinction between Toleration and Equality among Religions — Religious Equality Expressly Provided Against in the Fundamental Law of every American Colony.

JUST as soon as the professed Christian Church had substituted Constantine for Christ as its head, and united itself with the pagan State of Rome, it began to use as a means of its own aggrandizement the weapons of persecution which had hitherto been used against it, and had now come into its hands. And these weapons were wielded with perfect impartiality against pagans, and against Christian sects which were so unfortunate as not to have the State's force at their command.

Nor was this Great Apostasy a thing of brief duration, a passing frenzy, a false step soon retraced. It has never been retraced to this day. The spirit of persecution still dominates thousands who professedly follow the Master. The idea still lurks in many minds that belief may be superinduced by the vigorous application of the policeman's club to the heretical head, and that the " conviction " necessary to salvation can, somehow or other, be secured through a criminal proceeding.

And the manifestations of this spirit meet and shame us at every stage of history from Constantine to Victoria. Many sects of Christians arose from time to time. They differed from each other on almost every conceivable point, and on various utterly inconceivable points. But the right and the duty of persecution remained the one principle which they all held to in common — the “blessed tie that bound” together the disciples of Him who should not “strive nor cry.” The sects which found themselves for the time being “in opposition,” so to speak, disputed neither the fair intentions of the dominant sect, nor the general correctness of its actions, provided its premises were conceded. That it was a good thing to burn heretics was not doubted by the generality. The only question was, Who were the heretics? Hence each sect, as soon as it was able, began to burn heretics on its own account. All the sects objected to being persecuted; none of them understood religious liberty in any other sense than as liberty to them to persecute the rest. Of religious *equality* none of them had any idea whatever.

This is an important distinction, too often overlooked. When we read the earnest protests of many writers of the past against persecution, we are too prone to infer that they objected to persecution *as such*, like right thinkers of our age. But nothing could be farther from the facts. It was the exercise of violence and terror to make men disavow the truth, which they objected to so strenuously. As soon as the believers in the truth had violence and terror at their command, they used them as a matter of course against the believers in error.

And, of course, like the right and duty of persecution, its necessary means, the union of Church and State, was an accepted axiom with every sect. Each sect considered that it ought to form a part of the State, and to have at its disposal the power of the State to persecute the other sects to its satisfaction. Now, one of the inevitable results of this way of

thinking was to foster the very condition of things it was designed to prevent. Treason and heresy were not only regarded as synonymous by the ruling sect, but those whose real differences with that sect were merely on abstract questions of religion, were driven into overt treason by the necessities of the case, though they had no original grievance against the government. Compelled to meet secretly and at night, to shelter and protect each other, it was inevitable that the dissentients should combine and set up a sort of *imperium in imperio*, which the government in turn was bound to crush for its own preservation.

But, as the time wore on, through long experience two discoveries were made. One was that persecution could not be relied on as an infallible specific for heresy; that, while it sometimes proved effectual, as when the Albigenses were practically exterminated, it almost always resulted in an extension, instead of the suppression of objectionable doctrines. And the other discovery was that, if they were not treated *a priori* as traitors and pursued accordingly, people might repudiate the State religion and yet remain good, reliable, patriotic citizens, such as, for its own sake, the State ought not to kill, or maim, or exile.

Political expediency and practical experience thus co-operated to develop the wonderful idea of "toleration." But humanity was beginning to awaken also. Contemplating the horrors of persecution, men began to inquire not only into their effectiveness, but into their necessity, conceding that they accomplished the end in view,—of making converts. Creeds now began to be threshed over, and disputes to arise among the admittedly orthodox as to many of their multitudinous minor points. Their very length and complexity led to differences of interpretation, and prepared men's minds for the conception that there might be some distinction between beliefs necessary to salvation, and beliefs not necessary thereto; and that it might not really be a Christian duty

to burn a man to death by way of satisfying his mind about these last. And so "toleration" came to be a thing spoken of with apologetic approval, practiced to a limited extent, yet fiercely repudiated and denounced in many influential quarters.

In the direction of toleration, then, the general opinion — the *Zeitgeist* or time-spirit — of Europe had begun to move when Columbus set sail for America. The ceaseless theological controversies of the twelfth century had shaken the unity of the church, and continued to bear their fruit during the thirteenth and fourteenth centuries, in the development of heterodox sects, as well as conflicting "schools" claiming the right to remain within the orthodox fold, which they denied to others. Sectarianism had even been inaugurated and defended by ordained priests of the Catholic Church. The spectacle of rival claimants to the papal chair had suggested to the popular mind that differences on very important topics of religion were not necessarily incompatible with the preservation of social order. Each had excommunicated the other, and appealed to the laity for support, thus invoking the exercise of that "right of private judgment" hitherto denied.

But so slightly felt by the *Zeitgeist* was the influence of this idea of toleration that the worst infamies of persecution were committed after 1492. The torture and massacre of pagans in the beginning of the union of Church and State were yet to be outdone in the torture and massacre of Christians whose creed was not that established by civil law.

By the time that the English began to colonize this country, the pendulum had swung back again. Other influences, co-operating with the spirit of commerce, had given rise to the movements directed by Luther and Zwinglius and Calvin. But beyond a faint recognition of the policy of toleration, to an uncertain extent, and under uncertain conditions — beyond the conception that it was an important experiment, worth trying, though fraught with serious dangers — the *Zeitgeist* of the

English colonization period had not advanced. It still accepted the idea that belief could be influenced by assault, and that it was a sacred duty to make the assault when the belief was wrong on any vital point. But it was slowly and with many painful contortions assimilating the thought that some points of religious belief might not be vital, and that as to such points the receiving and even the preaching of doctrines contrary to those of the church by law established might be *tolerated*.

Such, too, was the time-spirit which dominated the minds of the American colonists. They were in no respect ahead of their day. Some of them, as will presently appear, were more advanced than others, that is to say, they were inclined to extend the lines of toleration farther. Beyond an extension of toleration none of them dreamed of going. Of religious equality, that is to say, of the absolute equality of all forms of religion and of no religion, before the law, they had no notion whatever. If the notion had been propounded to them, they would have pronounced it the equivalent of anarchy. It was broached, indeed, by individuals here and there. But it was a dangerous thing to do, as it is in every age, to pit the individual judgment against the *Zeitgeist*; and, with the exception of one single case to be mentioned again presently, and so extraordinary that it deserves to be called a latter-day miracle of Christianity, it was never accepted as a theory, nor put in practice even experimentally.

Upon no false assumption in history have more lies of fact and of inference been based than upon the false assumption that religious equality, — as right thinkers define and defend it to-day, that is, the absolute equality of all religions and of no religion before the law, — was understood by any considerable number of men, when this country was first colonized; and the equally false assumption that any body of English colonists had grasped such an idea, or were in-

fluenced by it, or entertained the slightest notion of establishing religious equality on these shores.

Pride of ancestry is neither good nor bad in itself. Like pride in general, it is a sentiment whose value is measured by its effect upon conduct. In some it breeds arrogance, insolence, idleness, inhumanity. In others it is a stimulus to purity of life, honesty, high and noble aspirations, a conscientious discharge of duty without regard to consequences. So with national pride. In the history of every nation there is enough to be proud of, and for each generation to strive to equal or surpass, and it is good to dwell on these things so long as we are thereby inspired to emulate them. American history is full of illustrations of the highest attributes of which our nature is capable; of bravery, of self-sacrifice, of laborious industry, of endurance, fidelity, and all things good and great. These are our moral inheritance, the capital of idealism handed down to us, which it is ours to re-invest in right living, and pass on enlarged to those who shall come after us.

But if we are to be profited by the past, it is essential that we should study our history honestly and impartially. We cannot be true to ourselves if we begin by being false with our predecessors. If we credit them with motives they did not feel and could not have understood; if we claim for them things which they never accomplished; if we defend their indefensible acts; if we seek to prove them in the right when they were in the wrong in their behavior toward others,—it will follow that we will deal likewise in our own case, and prove dishonest and tricky as a nation and in our personal transactions. Moreover, we thus expose ourselves to constant danger of mortification and loss. In this age of investigation and inquiry, our false gods are liable at any moment to be overthrown, and to have their rottenness exposed under the search-light of the "scientific method." And when a cherished set of ideals is dissipated, the process of replacing

them is slow and painful, and to many mental constitutions it is impossible.

No better instance of this unreasonable way of writing history can be found, than the claim so brazenly urged on behalf of the first American colonists, that they were the champions of religious equality as we understand it. In fact, as observed above, religious equality as we now understand it, was not understood at all when these colonists came from Europe, save by a few persons whose lives were in constant danger for their premature perspicuity. And, without a single exception, religious equality was carefully guarded against under every colonial administration.

It has happened, also, by a singular and perverse fatality, that this false pretense has been most strongly and incessantly put forward on behalf of the only colonists who came hither for the express purpose of founding a theocracy of their own; who did, in fact, set up the only independent, formally established church that ever existed in this country; who alone of all the colonists, seriously persecuted for religion's sake; who vied with the worst fanatics of Europe in the ferocity and relentless cruelty of their persecutions; and whose annals are stained with atrocities so infamous that one is amazed to find their descendents inviting discussion of the subject instead of allowing it to drop as completely as may be into oblivion. Nor is it necessary to apply the unfair standard of our better times to these bigots, in order to reprobate their ways. They stand out in broad contrast with their fellows as the only actively aggressive persecutors on American soil. We are sorry that "toleration" should have been universally accepted in lieu of religious equality; and that it should have been imagined that toleration had reached its reasonable limits when it was extended to all "Christian sects." We regret to read of the banishment of Quakers and the expulsion of "papists" from soil procured for the settlers by one of the best papists and best men that ever lived. But the American patriot's

cheek never kindles with shame till the story of the New England Puritans is told. Theirs alone is the dishonor of the torture, the mutilation, and the scaffold.

But beyond "toleration" none of the American colonists nor others of their day had advanced a step. Now, toleration, of course, implies superiority. It is an act of condescension, of forbearance, by the higher and better toward the lower and worse. It involves the right to persecute and destroy, and the grace which forbears. It is plain that the idea of religious toleration is utterly inconsistent with the idea of religious equality. Perhaps no man who understands the true nature of religious beliefs, *or of sincere unbelief in matters of religion*, will admit that one position on such subjects is "just as good as another." Certainly no man who has a religion of his own and appreciates and values it as he should, will be content to have his profession and practice of it "tolerated" by the professors and practitioners of any other religion, as an act of condescension from the better to the worse.

It has been said that religious equality was carefully guarded against in every colonial administration. Thus, in Carolina no man could have the benefit of the laws or own property, or be a freeman, who did not "acknowledge the existence of a God who was to be publicly worshiped;" and the Church of England was declared to represent the only true and orthodox religion.¹ And this under a constitution drawn up by John Locke, a man who knew better, as his writings show.

Later, in South Carolina, a "liberty of conscience" was proclaimed which did not extend to a "denial of the Trinity."²

North Carolina considered that she was doing all that could reasonably be expected of her when she confirmed the laws existing previous to her separation from South Carolina "for the indulgence of Protestant Dissenters."³

¹ "Story on the Constitution," Vol. i, p. 33.

² *Id.*, p. 140.

³ *Id.*, p. 142.

In Georgia's original charter the "free exercise of religion" was granted to all "except papists."¹

In Virginia, under the first charter, the English Church was established by law.² Later, courts-martial had authority to punish "*indifference*, with stripes; and *infidelity*, with death;"³ and the legislature afterward confined the protection of the charter to those who believed in "the Trinity and the divine inspiration of the Scriptures;"⁴ and though the Catholic Lord Baltimore, when driven from his own province of Maryland, found a refuge in Virginia,⁵ though the Puritans of Plymouth were invited to make the shores of Delaware Bay their home,⁶ and though some Massachusetts people did actually emigrate to Virginia,⁷ yet in 1643 it was forbidden to preach or teach privately or publicly except in conformity to the constitutions of the Church of England; and non-conformists were banished,⁸ and in 1658 Quakers were expelled, and their return regarded as a felony.⁹

By the charter of Maryland, Christianity was made the law of the land, though no preference was given to any sect;¹⁰ but the idea of toleration had not gotten beyond Christians; and in 1649 an act was passed to punish with death, followed by confiscation of all his lands and goods to the proprietary, any one who should "blaspheme God, or deny Jesus Christ to be the Son of God, or deny the Holy Trinity, or use any reproachful speeches concerning the Holy

¹ *Id.*, p. 143.

² Bancroft's "History of the United States," Vol. i, p. 123.

³ *Id.*, p. 143.

⁴ "Story on the Constitution," Vol. i, p. 125.

⁵ Bancroft's "History of the United States," Vol. i, p. 197.

⁶ *Id.*, p. 198.

⁷ *Id.*, p. 206.

⁸ *Id.*, p. 207.

⁹ *Id.*, p. 231. Bancroft says, however, that though the laws in Virginia were severe, the administration was mild. (*Id.*, p. 206.) And in fact we find that when Governor Berkely forbade the Puritan preachers to hold public services, "the people resorted to them in their private houses to hear them," and Puritan authority says nothing of interference with these private meetings (see Campbell's "History of Virginia," p. 203), though another preacher who followed the first three was ordered by Berkely to leave. (*Id.*, p. 211.) The Presbyterians early obtained a foothold in Virginia, and the followers of that faith do not appear to have been interfered with. (*Id.*, pp. 438, 446.)

¹⁰ Bancroft's "History of the United States," Vol. i, p. 243.

Trinity or any person thereof ;”¹ thus Jews and Unitarians were left out ; and the former were not eligible to office in Maryland till 1825.²

New York passed an act condemning to perpetual imprisonment all “popish priests” remaining in the colony after a certain date, and death if any escaped and were retaken.³

In New Jersey “liberty of conscience” was allowed to all persons “but papists.”⁴

Pennsylvania guarded against molestation all who believed “in one Almighty God ;” and all who “possessed faith in Jesus Christ” were eligible to office.⁵

In the colony of New Haven the identification of Church and State was complete, and the Scriptures were adopted as a code of laws.⁶

Much the same state of things prevailed in Connecticut, where all were required by law to attend at the Established Church, and Quakers “and other notorious heretics” were required to be imprisoned or banished.⁷

By the charter of New Hampshire “liberty of conscience” was allowed to “all Protestants” only.⁸

In the colony of Massachusetts “heresy” was punished with fines, banishment, and in “obstinate cases” with death ;⁹ and attendance on public worship, sustained by the State, was enforced by the penalty of a fine.¹⁰

In Rhode Island the principles of that marvelous man, Roger Williams, found full expression at one time. When

¹ Scharf’s “History of Maryland,” Vol. i, p. 174.

² *Id.*, p. 153.

³ “Story on the Constitution,” Vol. i, p. 75. Persecution was occasionally resorted to by Stuyvesant, the Dutch governor of “New Netherlands.” It was always rebuked by the company in Holland which he represented ; and the persecuted of every creed were invited by the kind and hospitable Dutch.—“*Bancroft’s History of the United States*,” Vol. i, pp. 300, 302.

⁴ *Id.*, p. 120.

⁵ *Id.*, pp. 123, 124, and “Frame of Gov.,” 1683, art. 34.

⁶ Bancroft’s “History of the United States,” Vol. i, p. 404 ; “Story on the Constitution,” Vol. i, p. 85.

⁷ “Story on the Constitution,” Vol. i, pp. 90–92. The law against Quakers, says Bancroft, never was enforced (Bancroft’s “History of the United States,” Vol. iii, p. 70).

⁸ *Id.* ; “Story on the Constitution,” Vol. i, p. 80.

⁹ *Id.*, p. 74.

¹⁰ *Id.*

her charter was granted, it was expressly provided that "no person within the said colony shall be anywise molested, punished, disquieted, or called in question for any difference in matters of religion; every person may at all times freely and fully enjoy his own judgment and conscience in matter of religious concernment;"¹ yet later, Rhode Island by statute excluded "papists" from its established equality.²

As to the founders of the colony of New Plymouth,—those "Pilgrim Fathers," of whom we hear so much,—they allowed that a man ought not to be deprived of his "life, limb, or property," except with certain preliminaries "or by virtue of the known law of God"—known, of course, to themselves alone.³

They made heresy a statutory crime, subjecting the offender to banishment;⁴ they punished with death any one who should "wilfully deny the true God or his creation and government of the world"—meaning their God and their theory of his works,⁵ quoting Lev. 24: 15, 16 as their authority for passing such a law.

They disfranchised everybody who was not "sound in the fundamentals of religion," meaning everybody who did not accept *their* religion in its entirety, and also whoever should alter his views on this subject so as to become "an apostate."⁶ They fixed the death penalty for any one who, "having had the knowledge of the true God," afterward worshiped any other than "the Lord God,"⁷ meaning *their* God; and they would not allow even *him* to be worshiped in any manner not ordained by themselves; thus, they forbade any public

¹ Bancroft's "History of the United States," Vol. ii, pp. 63, 64; "Story on the Constitution," Vol. i, p. 97. It has been well said this charter did not limit freedom to religious sects alone; it granted equal rights to the paynim and the worshiper of Fo. To the disciples of Confucius it was, on the part of a Christian prince, no more than an act of reciprocal justice; the charter of Rhode Island was granted just one year after the emperor of China had proclaimed the enfranchisement of Christianity among the hundred millions of his people. See Bancroft's "Hist. of the United States," Vol. ii, p. 62.

² *Id.*, Vol. iii, p. 69; "Story on the Constitution," Vol. i, p. 98, and authorities cited.

³ "Laws of the Colony," 241.

⁴ *Id.*, 248.

⁵ *Id.*, 244.

⁶ *Id.*, 258.

⁷ *Id.*, 244.

meeting to be held without the approval of the "General Court,"¹ and especially the holding of religious assemblies "in any way contrary to God and the allowance of the government."² They generously proffered the "assistance" of the central despotism — the "General Court" — to towns in "setting up churches," in order that "faithful preachers" might be secured³ — meaning thereby to prevent the towns from selecting their ministers without submitting to the judgment of the "General Court" the orthodoxy of their choice; — and forbade the setting up of any church "different from those already set up and approved, without the consent of the government," under any penalty the General Court might see proper to inflict.⁴

They made it a penal offense for a Quaker to come within their domain, threatening such a one with whippings, the stocks, and death;⁵ they also punished those who should bring Quakers into the colony;⁶ or entertain them;⁷ required all good citizens to give information of the whereabouts of Quakers, and authorized anybody to arrest them.⁸ They would not allow these people to vote,⁹ and seized without process, their books,¹⁰ and their horses.¹¹

¹ *Id.*, 103. There is no adjective "religious" before the noun "meeting" in this law. Under its provisions the common law right of Englishmen "peaceably to assemble" at any time and "petition for the redress of grievances" was taken away at one fell blow, and no meeting of any kind whatsoever could be held by the unfortunate people of Plymouth Colony, save by the gracious permission of that cruel and relentless central despotism, the "General Court." In this regard, as in many others, the position of the Plymouth colonists under the sway of the "noble representatives of freedom," who guided and controlled their destinies, was not one whit better than that of the Russian peasants in the hands of the czar's "administrative police."

² *Id.*, 87.

⁴ *Id.*, 92.

⁵ *Id.*, 126, 130.

² *Id.*, 93.

⁶ *Id.*, 102, 127.

⁷ *Id.*, 103, 126.

⁸ *Id.*, 125, 131.

⁹ *Id.*, 114.

¹⁰ *Id.*, 122.

¹¹ *Id.*, 127. The reason given for depriving the Quakers of their horses is that by the use of those animals they were enabled to escape from the officers "who might otherwise apprehend them." But, as in most other actions of the Pilgrim Fathers, it is probable that cupidity was a leading motive for this confiscation. There appears to have been a scarcity of horses in the colony, as the towns are recommended to engage in the business of breeding them ("Laws of the Colony," 103). It was, of course, far more agreeable to men of the Pilgrim Fathers' cast of mind to keep up the supply by seizing on the possessions of heretics, than by undergoing the trouble and expense of breeding them, thus "spoiling the Egyptians," carrying out their great principle that "The just shall inherit the earth," and combining a religious duty with pecuniary profit, after the well-loved fashion of their kind.

The case of these New England Puritans will be recurred to hereafter. Enough has now been adduced to show that we cannot associate the recognition of religious equality, in its true sense of the absolute equality of all religions and of no religion, before the law, with the establishment of any American colony. A number of features in our jurisprudence utterly inconsistent with religious equality are pointed out in "Church and State," such as the exemption of church property from taxation, etc. A few facts may be mentioned here to show how vain and unsubstantial is the boast that religious equality is established and guaranteed among us even at the present day.

There is nothing in the Federal Constitution to prevent the setting up of an Established Church by the States; but all powers not granted on one side or prohibited on the other by that instrument are expressly "reserved;" and thus the power of setting up an Established Church is expressly guaranteed to every State. Only five States of our Union have thought it worth while in their constitutions to guard against the establishment of a State Church. These are Alabama, Iowa, Louisiana, New Jersey, and South Carolina. Twenty-six States, however, provide against any "preference" by the State of one form of religion over another. Under the very vague language of many other Constitutions, it may be doubted whether the establishment could not be set up at the caprice of any legislature. In no less than twenty-seven States is a religious test provided for office-holders.¹ Only seventeen States prohibit the absurdity of the *voir dire*, or examination of a witness as to his religious belief, in order to determine his reliability as a witness to the facts at issue. But the very existence and occasional practice of the *voir*

¹ Vermont declares in her Constitution that every sect ought to observe the Lord's day, and Delaware that every sect should keep up some sort of religious worship. In order to hold office in Pennsylvania and Tennessee, a man must believe both in a God and a future state of rewards and punishments; but belief in God alone is enough for an office-holder in Maryland, though not for a juror or witness.

dire shows that we are not one whit more logical on some subjects than were our ancestors one thousand years ago. For the *voir dire* assumes that a man's statement about his belief is necessarily true ; and if his statement of it includes certain elements, then it assumes that *because he has told the truth* on this subject when *unsworn*, therefore he cannot be relied upon to tell the truth on another subject after *swearing* to do so ! It is plain that men who practice the *voir dire* cannot afford to smile at men who roasted their fellows to convince them of dogmatic truths.

CHAPTER IV.

The Plymouth Brownists who set up an Established Church and the Sunday Law in America — Origin and Character of the Brownist Sect — Their Treason in England — Their Departure from England and from Holland altogether Voluntary — Their Freedom in Holland — Except in the Matter of Bullying the Dutch, they came to America as Fugitives from Nothing, but to Make Money out of the Fisheries, and to set up an Established Church of their Own.

It has been said that the importance attached to the compulsion of belief, led to the elaboration of the complex creeds now recognized among Christians. It also led to the multiplication of sects. Strong-minded, zealous, earnest men, with their own salvation and that of their fellows at stake, could not be kept, even by fire and sword, from pondering over matters of faith, and announcing their conclusions. And, apparently, it was impossible to announce any conclusions, however crude or monstrous, without securing enthusiastic disciples, eager for the crown of martyrdom. In the multitude of its sectarian divisions, popular Christianity stands peculiar among the religions of the world ; and the number of these divisions is still increasing.

In the importance which they attached to belief, the Christians of Great Britain were fully abreast of their brethren on the continent. When the English Parliament finally severed the connection of the State Church with the See of Rome (1558), the various shades of religious opinion were almost infinite in number. Elizabeth, who was then made

the pope of the new dispensation, like Henry VIII, looked on the separation as a political rather than a doctrinal movement. There were perhaps no tenets of Rome to which she did not subscribe, except the theory which gave the Roman pontiff the right to meddle with the civil affairs of her kingdom. From her attachment to Rome's gorgeous and stately ceremonial, and her inclination toward the doctrine which it symbolized, to the intense aversion felt by the "low-church" clergy for every particular of Romish service and distinctive dogma, it was a long way; and the intervening ground was filled with men whose views were more or less a compromise between the two extremes. There were a number of lay believers separated in fact, if not in law, from the establishment, before the formal repudiation of Rome's authority by the latter. But, on the other hand, many of very "advanced" opinions remained in clerical positions. The setting up of the new order of things precipitated a revolt, and undoubtedly helped to bring about the disaster of the reign of Charles I. Many influential clergymen who, if undisturbed, might have lived and died within the fold, having tendered to them an "oath of supremacy," that is, an oath which recognized Elizabeth as the "governess" of the Church, gave up their livings, and at once assumed the position of martyrs to principle. These were the "non-conformists." They formed a most important addition to the forces of discontent.

The "low-churchmen," who remained in nominal connection with the establishment while more or less openly repudiating some of its doctrines, were known by the general name of "Puritans,"¹ or "the Pure," a name they gave themselves in the true spirit of the Pharisee, thanking God they were not as other men. Yet there was in the early days of Puritanism something about it attractive to the earnest-

¹ The Puritan sect, properly so-called, was a party within the Church of England, that objected to the cross in baptism, the ring in marriage, the use of the surplice, and the bowing at the name of Jesus.—"*Hume's Hist of England*," Vol. iv, p. 228.

minded. It appeared a revolt against formalism, an appeal to conduct rather than ritual as the real business of religion. It was a reaction, timely and serviceable, from the frivolity and inconsequence of the day. But it seems to be the fate of those who attack forms as such, to end by becoming themselves the slaves of forms, only of another sort. Witness the case of Fox and his Quakers. Witness the Puritans who drifted into Brownism.¹

The Brownist sect did not arise until some time after Puritanism, in its larger sense, had become an important factor in the English State. Brown, its founder, was of what is called "good family;" but of a temper most violent and implacable, and a self-conceit which made him regard every slightest utterance of his own as a direct emanation from Deity. His domineering spirit would brook no contradiction or interference, and constantly found expression in acts of violence. He habitually beat his wife, though he was careful to explain that he beat her "not as his wife, but as an accursed old woman." About 1550 he began to preach a separation of the Church from the State and an independence of secular authority. He does not appear to have objected to the doctrines, but merely to the forms, of the English Church.

Here, again, he expressed the essence of Puritanism. Pharisaical sanctity is always accompanied by an overweening regard for externals. To cleanse the outside of the platter has from the beginning been the great objective point of Puritan morality. Brown went from England of his own

¹ It cannot be too often repeated and emphasized that herein lay the radical distinction between Puritanism proper and Brownism,—that Puritanism was in its essence a lawful, legitimate movement *within* the Church of England for the simplification of doctrine and especially of ceremonial; whereas the corner-stone of Brownism was *separation*, or the setting up of a new church, and this as a mere first-step toward the destruction of the establishment, then, as now, an integral part of the British Constitution; nor, as will presently appear, had the Brownists any idea of stopping at this point. Having destroyed the English Church, and set up a new organization in its place, they next proposed to destroy the government, and erect a new and wholly ecclesiastical polity upon its ruins.

free will and established himself with a small congregation in the island of Zealand. But not even the Brownists could stand Brown. His uncontrollable violence, and tyrannical egotism "broke up" his church, as it would have done any church or government with which it was strong enough to cope. He returned to England, and "sold his birthright" to the enemy "for a mess of pottage," that is to say, he "conformed," and accepted a rectorship under the Church of England. The position was a sinecure. He had a curate to do the work, while he enjoyed the "living."

From our standpoint, his case was not so bad as it was from his own. As has been said, he had never found any fault with Anglican doctrines, so that there is no ground for charging him with sale of conscience on such points. But we must remember that Brown made points of conscience out of mere ceremonial practices, and these he undeniably bartered away. True, he boasted that there was but one church in England, and that was his church, and the ceremonies therein were of the simplest. But his every utterance shows that his views were unchanged when he accepted the charge at the hands of an organization which enforced the ceremonies he had so bitterly denounced, not, indeed, as matters of faith, but still as things which were excellent and desirable in themselves, and which her priests were pledged to observe on all convenient occasions. So that he did in that acceptance —

"Crook the pregnant hinges of the knee
Where thrift might follow fawning."

His violent temper held him till the last. In disputing with a constable about taxes "he proceeded to blows," and afterward outrageously insulted the justice of the peace before whom he was arraigned, and was sent to jail, where he died at the age of eighty years, "boasting on his deathbed that he had been in thirty-two different prisons."

We have said that Brown advocated a separation of the Church from the State, that is to say, a separation of the English Church from the English State. But a separation of *Church and State* was no part of his scheme. On the contrary he proposed to abandon the Episcopal organization, and make each congregation altogether independent of the rest, and then to place all the authority of king, Parliament, and magistrates in the hands of the rulers of each church,—in a word, to overthrow the government of England, and substitute therefor a number of small hierarchies, wherein there should be not merely a union of Church and State, but an absolute identity of the two, modeled after the system of the Jews in Palestine. And pending this reconstruction of the British Constitution, Brown inculcated as a sacred duty forcible resistance to the law of the land.

Of course these theories of Brown's were treason pure and simple. Neither his "apostasy" nor his death prevented their spreading. And when we consider the *Zeitgeist*, we are amazed at the leniency with which the advocates of such doctrines and those who applauded them were treated. A great deal has been written and declaimed about the cruelties inflicted upon the Brownists and the oppressions they endured "for conscience's sake." But when we come to examine the details, we find no such horrible deeds as those which blot the history of the Brownist Church in America. It was not their "freedom to worship God," but their license to advocate the disintegration of the State which the government, as in duty bound, denied to them.

We have seen that, by reason of the identification of Church and State, heresy and treason were at all times in danger of being rendered identical. The distinctive point about the case of the Brownists is that they based their treason on their heresy or faith, and openly avowed that they were divinely inspired to defy the law and the authorities. That there should be no public worship save that which the

State ordained and regulated was a part of the accepted union of Church and State. That meetings at which resistance to the State itself was preached as an article of religious faith were proper objects for police interference, was taken for granted. Such were the meetings of the Brownists; such were the doctrines they taught. The extent of "persecution" they suffered was the breaking up of these meetings. Nobody was banished, hung, or mutilated for taking one view of the gospel rather than another, so long as he neither taught nor practiced treason.¹

It is certain that at the time of their departure from England the Brownists had little to complain of. In James I they were blessed with a sovereign to whom it was only less obnoxious to employ violence than to suffer it,—peaceable, kind-hearted, fond of books, vain of his scholarly attainments, courting a tranquil, easy life. If the Brownists had been content to prate of abstractions or to exercise their "freedom to worship God" in quietness and peace, it is not thinkable that James would have inflicted any worse punishment on them than to address them a pamphlet explaining the precise delineations between orthodoxy and heterodoxy.² It has been observed that the animosity of the Brownists was directed rather against forms than doctrines. It may be added that, so far as they possessed a definite theology, James I was not likely to find much fault with it. He was strongly inclined toward the Genevan school, of which the milder Puritanism was an outgrowth, and of which Brownism was a closer copy than many "Calvinists" of our day like to admit.

¹ These meetings were secret and held in private houses. The Brownists were never punished for frequenting other places of worship than those of the Established Church, because none such existed, and no Protestant sect assumed, or pretended to the right of erecting them.—*Hume's "History of England," Vol. iv, p. 351.*

² It has been well said that "had the king been disposed to grant the Puritans a full toleration for a separate exercise of their religion, it is certain, from the spirit of the times, that this sect itself would have despised and hated him for it, and would have reproached him with lukewarmness and indifference to the cause of religion."—*Id., p. 350.*

But the Brownists were not men to improve under indulgence. The more license they had, the more reckless and anarchical they grew. Extravagant as the claim seemed to their cotemporaries, inadmissible as it may seem even to us, it was by no means sufficient from their standpoint that they should be permitted to be a law unto themselves. It was essential to their scheme of life that they should be a law *to all others* with whom they were brought in contact. Under the existing state of things it was impossible that they should be this in England; nor was it likely that the existing state of things would in the near future be altered favorably in this regard. To all but a few the doctrines they held were as repulsive as the manners and character of their advocates, which is putting the case very strongly indeed. The time was coming when fanaticism as deep and relentless as theirs, though tempered with worldly wisdom, was to rule over England. But they would have proven a thorn in the side of Cromwell himself. The strong, centralized organization which he set up would have been as obnoxious to them as the government which he overthrew. And, while, as we shall see hereafter, their leaders were perfectly capable, in this regard as in others, of abandoning their professed principles in the interest of their own aggrandizement, yet Cromwell would have had to confront the alternative of allowing those leaders to rule the commonwealth and "run" it, or of being assailed with the same revolutionary invectives which they launched so freely at king and Parliament alike.

In short, it may be truthfully said of these Brownists, that their principles and practices rendered it absolutely necessary for them to live alone, inasmuch as they could by no possibility live in peace with other men. Brown himself had recognized this fact by leaving England. It was some thirty years later that a second party of his followers determined to imitate his example. John Robinson was at their head. As with the movement led by Brown himself, their leaving was

an act of voluntary exile and not in the least the result of banishment or induced by persecution. There is every reason to believe that the kindly-hearted James was sorry to have them go. His subsequent correspondence with them is marked by fatherly regard on his side, and hypocritical subserviency on theirs.

John Robinson and his people went first to Leyden. They could have their own way in Holland, as they could in England, in their own affairs, just so far as that way was compatible with the preservation of order and the supremacy of law. Further than this they could not go in either country. The Holland churches were no further removed in doctrine from the Romanists, than the low-church school of Anglicanism to which James himself belonged. But the Brownists were comparatively safe in Holland from the sight of those ceremonial observances which to hate was with them an essential of religion. Neither hosts nor guests were, however, content with the situation. The Dutch were poor and absolutely "set" in their ways. The Brownists were avaricious and bent on establishing their theocracy. The stories of the enormous fortunes gained in the fisheries of North America, and the opportunity of there realizing their dream of a united Church and State, led them to determine to remove hither.

We shall not wonder that when the Brownists were taught to regard themselves as a chosen people, and to liken themselves to the Israelites of old, they remembered that while the mission of these last was the conservation of the faith, it was a part of their destiny to spoil the Egyptians, and to enter the land of the Canaanites and possess it. It was a fundamental article of the Brownist creed, that the Brownists were the just; and it was written that the just should inherit the earth. Moreover, those who did not agree with them could not be overcome without the command of material resources. The acquisition of power, therefore, was a

sacred duty, in order that the children of Belial might be destroyed and a kingdom of this world erected in the Master's name. The spirit of the early bishops, who effected the first union of the Christian Church with the State was thus working perfectly among the men who set up an Established Church, on American soil. And it is to those men that we owe our American Sunday laws. Every Sunday law in America is the work of this spirit, as was that first Sunday law which Constantine made for Europe.

CHAPTER V.

The Character of the Massachusetts Brownists who Confirmed the Established Church and the Sunday Law in America — They were False to their King in the Obtaining of their Charter — And Guilty of Treason in Setting up their Government, and Establishing the Brownist Church by Law — Their Charter Righteously Revoked — A New One Granted and How They Defied It — The Base Falsehood and Hypocrisy of their Replies to Questions on this Point — False to their King and False to the Natives, they Prove at Last False to their own Fellows — And Violate the Fundamental Principles of their "Congregational" System.

WE have seen that the Brownists had no notion of a separation of Church and State, but, on the contrary, that their goal was an absolute identification of the two. This was unquestionably their founder's teaching, and was favored by their leading and representative men, and it is more than probable that they would have carried out this idea completely, and made their preachers their magistrates and judges *ex officio*, but for the presence among them of a small yet alert minority who were not prepared to go to that extreme in a formal and deliberate manner.

But, if we waive questions of mere form, and admit that the civil administration was not ostensibly and in its visible machinery identical with the ecclesiastical establishment, we may truthfully affirm that in the constitution of the Plymouth colony the identification of the Church with the State was as complete as it was among the ancient Hebrews, to whom

it was the greatest glory of the Brownist to liken himself. And though, as already observed, in no American colony did religious equality exist, it being no more understood in America than it was in Europe, yet this identification, even in spirit, is found nowhere except among the Puritans. So far, then, from being the apostles of religious liberty in America, they were precisely the reverse. They were the apostles of religious tyranny and absolutism, the representatives of the idea of an established church, as their descendants are to-day.

If we are shocked to read of the sayings and doings of many of the bishops who effected and manipulated the first union of the Church and State, it must be conceded that the conduct of the apostles of that union in America is equally abhorrent.

Their charter made of the Brownists a corporation under the title, "The Governor and Company of Massachusetts Bay in New England." It named the first officers and provided for the election of their successors "by the freemen of the company." And it authorized the making of rules and ordinances, etc., "according to the course of other corporations." In short, it created an ordinary trading body, except that it granted the officers in New England power "to resist invasion." Neither its express provisions, nor the circumstances of its granting admit the hypothesis that it was intended to create a political corporation, or confer political rights upon any body. The corporators, or those who might afterward join them, had not the essential powers of a government. They could neither levy taxes, assemble representatives of the people, nor establish courts. As to the actual settlers, they possessed no rights whatever under the charter, except their title to the land they purchased.

The Massachusetts Brownists began their treachery in the new country by establishing Brownism, under the guise of a "Confession of Faith," and banishing two men who in-

sisted on worshipping according to the English rite ; and this, notwithstanding that the establishment was part of the law of England, and they had accepted their charter under a pretense of fidelity to that church, and one of the charter's objects,—its leading object according to its own language,—was to enable them to make converts to Christianity (as taught by the English Church) among the Indians.

Shortly afterward, finding that their colony was not prospering as they had hoped, and that their contemplated independence of England was not easy to secure while the corporation was located on English soil, they resorted to an act of brigandage—it was little less—to facilitate their schemes. In defiance of law, precedent, and moral right, they transferred their charter, and their corporation with it, bodily from its legal *habitat* of England to Massachusetts. After this illegal and revolutionary proceeding, they hesitated at no act of treason, no violation of their charter's express provisions.

The corporation was authorized to make “laws and ordinances,” etc. From the very nature of a corporation, these could only concern its business,—that of trading and converting the Indians,—or be such as were reasonably necessary for the carrying on of that business under the peculiar circumstances. Yet the Massachusetts Brownists proceeded to set themselves up as a practically independent government, preposterously, and of course insincerely, basing their right to do so on a charter which had created them a business and missionary corporation. They were allowed to make “rules and ordinances and impose fines, etc., according to the course of other corporations.” Yet they proceeded to make *laws*, so-called and so-enforced. They were expressly forbidden to do any corporate act, contrary to the laws of England ; yet not only did they proscribe the English Church, which was established and protected by those laws, but in any other respect which seemed good to them they set those laws aside in so many words, and defied them in action.

Thus, a charter whose purpose was the extension of the authority of the English State, and the advancement of her material wealth, as well as the bringing of savage tribes within the folds of her Church, was perverted into the means of setting up a new State and a new Church, inimical to her establishments of both kinds.

After a long and merciful forbearance on the part of the crown, the charter of the Massachusetts Brownists was justly declared forfeited on account of the revolutionary proceedings under it and the gross and flagrant violations of its letter and spirit (1664). In 1691 a new charter was granted by William and Mary, which embraced the Plymouth colony. By this, many powers of government were bestowed, including the raising of taxes by the "General Court," and passage of laws and ordinances, with the old proviso, "so as the same be not repugnant or contrary to the laws of England;" and it was expressly provided that there should be "a liberty of conscience allowed in the worship of God to all Christians, except papists."

As before, the Brownists immediately proceeded to legislate in direct defiance of their charter. They provided that no man should be deprived of his honor, or good name, or wife, or children, or estate except under an express law, "or, in case of a defect of a law in any particular case, by the word of God;" and, as they alone were to decide what was the "word of God," as well as its application to "any particular case," they, of course, in making this provision, practically asserted their independence of the laws of England, and added a system of jurisprudence contrary and repugnant to those laws, namely, the system of the Established Church of Brownism, their adherence to which had been so repugnant to the laws of England that it had been the cause of their leaving that country.

Moreover, the meaning and application of the "word" were left, by implication, to the caprice of local magistrates and juries in many cases; it being specified that the admin-

istration of punishment in capital cases, of dismembering, or banishment should be according to that word, "to be judged by the General Court." So that a man might lose all his minor rights, such as the enjoyment of his property, or the society of his wife and children, whenever a single "country justice" or hostile neighbor of the Brownist persuasion considered that he had violated "the word of God," whereby the Brownist understood the Mosaic code; and he might be banished, or hung, or dismembered whenever the assembled Brownists of the General Court arrived at the same conclusion. And all this, without any reference whatever to the laws of England, but in express defiance of them, and by the deliberate application of another set of laws to cases where "defects" were found in the laws of England — that is to say, to any cases wherein the laws of England did not authorize the manifestation of the cruelty and bigotry for the sake of whose free exercise the Brownists came to America. Thus "wager at law" was not allowed, but "according to law and according to the precept in *Exodus* (22 : 7, 8); and, in criminal cases, where the law prescribed no penalty, the judges were to inflict penalties "according to the rule of God's word."

In 1646 the Massachusetts Brownists were called upon to show the conformity of their law with the law of England. Their answer is full of that hypocrisy which is an essential characteristic of their system, and is as perfect an illustration as could be found anywhere of the destructive effects of Phariseism on the instinct of veracity.

They protested that they were true and loyal subjects, though they had made loyalty to the king and a resistance to their own usurpations a capital offense.

They asserted that their law of inheritance was like that of England, and the elder son was "preferred," meaning to have it understood that they had adopted the law of primogeniture; whereas they had in fact done no such thing; for

estates of deceased persons were partible, and while the eldest son was "preferred," his preference extended merely to a right to two portions of the number into which the estate was divided.

They quoted *Magna Charta's* provision that the Church shall "enjoy all her liberties;" and claimed that their own rule that "all persons orthodox in judgment and not scandalous in life may gather into a Church-estate, according to the rules of the gospel" was of similar import; yet they knew that the "Church" referred to in *Magna Charta* was the Established Church of England, and that that church enjoyed no liberty whatever among them; that no professor of her doctrines or priest of her ritual was "orthodox" in their eyes; that it was a crime to perform her services within their domain; that the "rules of the gospel," as interpreted by them, did not allow any persons to "gather into a Church-estate" except Brownists.

They suppressed the fact that they had set up a qualification of the franchise—church-membership—utterly unknown to the laws of England; and that this was not merely membership in some church, or even in some Christian church, but was membership in the State Church. Such a qualification would have disfranchised every one of them in England, had they been honest enough to avow that separation which they designed to establish here. As their State Church was Brownism, it disfranchised every dweller among them who did not belong to the Brownist Church, including, of course, every adherent of the Church of England. They "pointed with pride," as the politicians say, to their requirement that "no injunction should be put upon any church, besides the institution of the Lord," though they knew that their "General Court" made no distinction whatever between the institution of the Lord and the institution of Brownism.

And this brings us to the consideration of another specimen of the hypocrisy and double dealing of the leaders of

the Brownists. False to their king, and false to the natives, they were likewise false to those whose spiritual and temporal guides they professed to be, and false to themselves in the betrayal of the fundamental tenet of their sect. They professed an adherence to the principles of Anglicanism till they had obtained under false pretenses the privileges they desired. But when the application of the Brownist theories of Church and State organization threatened to render others independent of them in religious matters as they had rendered themselves independent of the government and church to which they professed allegiance, then without the slightest scruple these "apostles of religious liberty" repudiated the essential principle of their founder's teaching.

The very corner-stone of Brown's system, his one great purpose and aim, was to secure recognition of the right of any congregation to organize and elect a pastor without interference from without; and, after organization, to preserve the absolute and complete independency of each church, its perfect isolation, the absence of any central control or supervision whatever. But neither of these things was permitted by the Brownists of Massachusetts. Among them no church could be founded without permission of the government. Churches were excommunicated and towns disfranchised, for rejecting pastors selected for them by the "General Court." This centralization of authority was due to the fact that some who were not Brownists, desiring to secure the privilege of the franchise, adopted the obvious course of organizing themselves into congregations, and thus becoming entitled as "church-members" to the ballot. The danger to the political supremacy of the Established Church of Brownism was considered a sufficient excuse for the abandonment of Brownism's fundamental tenet.

CHAPTER VI.

The Character of the Plymouth Brownists, who Established the Sunday Law in America, further Examined.

It is important to remember what is often forgotten or deliberately ignored in the discussion of our subject, namely, that the idle and cheerless Sunday is the great distinctive tenet of Brownism, and that it distinguishes Brownism from Catholicism, Lutheranism, and Calvinism as well. The practice of Catholic countries shows that the maintenance of such an "institution" forms no part of that church's purposes. This practice remains now substantially what it was in Luther's time. His Protestantism included no objection thereto. Calvin formulated no proposition even remotely tending to set up the obligation of an idle, cheerless Sunday among the duties of a Christian life.

But what is even more important, and what is even more often forgotten and more deliberately ignored, is this, that, widely as the dogma of the idle and cheerless Sunday separates the Brownist from non-Puritans of every sort, it did in the beginning separate him scarcely less widely from all Puritans who were not Brownists. Brownism was indeed a grotesque English exaggeration of early Scotch Protestantism. In time, it reacted on Scotch thought. But the men who trained with John Knox were not tainted with this Brownist idea. They did not know the idle and cheerless Sunday which the Brownists brought to America. Knox himself wrote letters, traveled, and gave set entertainments on this day. Only by degrees, as Brownism spread, and the extraor-

dinary child of Puritanism devoured whatever there was reasonable, sincere, and good, in the parent, did the idea of an idle and cheerless Sunday prevail. Only after Brownism had gotten control of the British Parliament was the first step taken, to set up the idle and cheerless Sunday as an English institution.

And, as Brownism is responsible for the idle and cheerless Sunday of England and Scotland, so it is for the establishment of that "institution" on American soil; and this establishment was only possible, as its maintenance is only possible, through the union of Church and State which was effected under Brownist auspices. The spirit which gives birth to this kind of legislation, and seeks its enforcement, is the spirit of Brownism, and nothing else. The variety and strictness of its requirements are determined by the extent to which Brownism prevails in each community.

As, according to the very highest authority, an evil tree cannot bring forth good fruit, it is not to be expected that such a tree as that of Brownism should give birth to anything in the way of legislation which is desirable or worthy of imitation in the interests of humanity. But from Brownist ideas of the union of Church and State, and from Brownist methods of legislation, America has, in the main, fortunately shaken herself free. The conspicuous exception which forms the topic of this essay is found in the Sunday laws. While Sunday laws were among the enactments of other than Brownist colonies, they were one and all modeled after the Sunday laws which Brownism fastened upon the English people. While members of many communions have a superstitious reverence for these laws, yet, by whatsoever names they call themselves, all such people are the intellectual children of the Brownists, the heirs of their spirit, the perpetuators of the theory of a united Church and State which the Brownists planted in America.

A word may be said here in regard to the basis of this conception of an idle and cheerless Sunday which constitutes an essential dogma of Brownism, and distinguishes it from all other phases of Christianity. The Brownists elevated what they called the "observance" of this day to the rank of a leading, if not *the* leading virtue of a Christian life. And they developed a theory of the proper nature of this observance which it has been often asserted that they borrowed from the Jews, but which, as will presently appear, and as cannot be too often or too strenuously insisted, was, in its entirety and symmetrical completeness, a conception original with themselves—in fact, whatever its merits, an absolutely new discovery or invention in the world of mind.

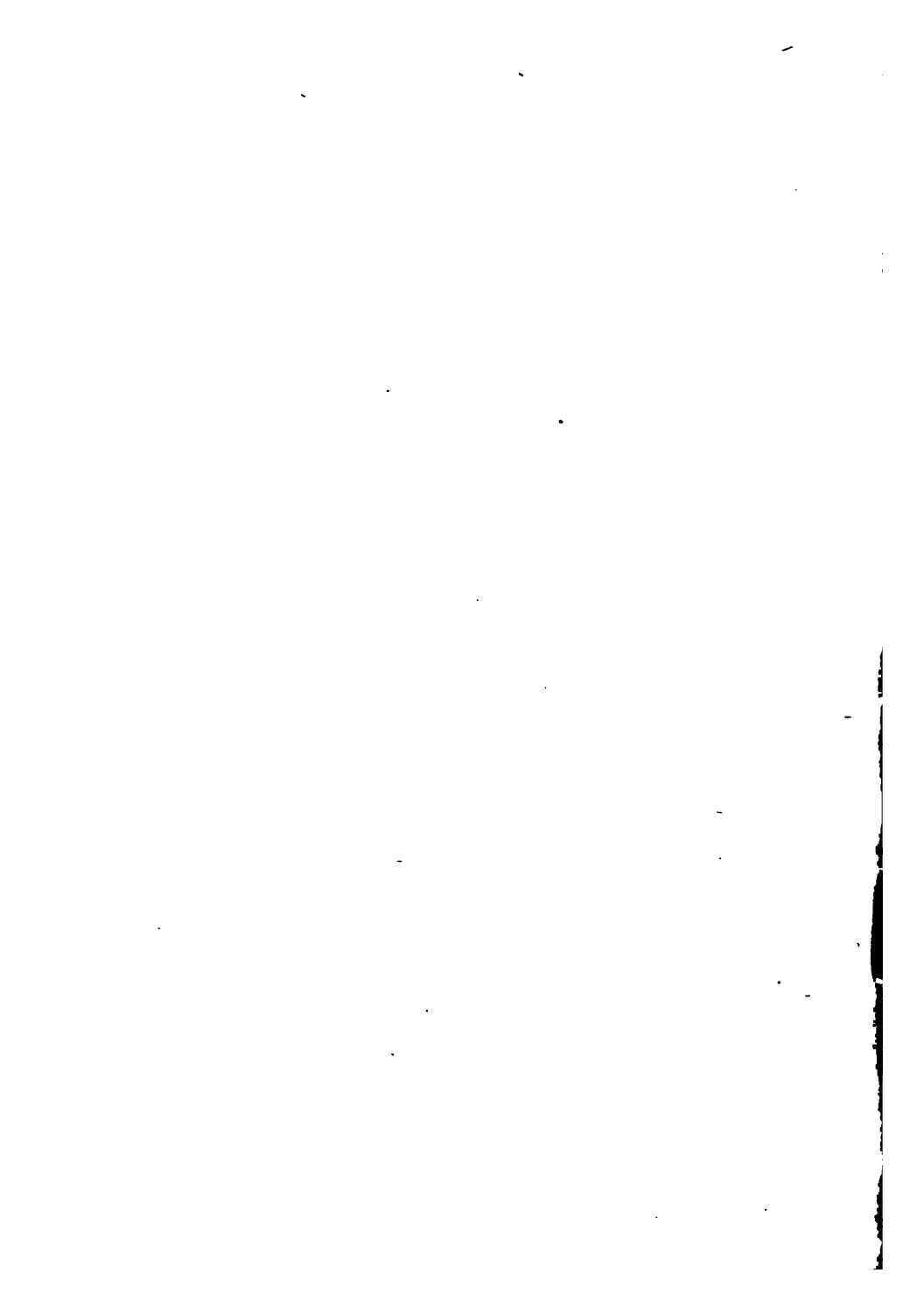
Religious feasts and fasts, sacred days of one kind or another, are common to all systems of belief. The distinction between a feast-day and a fast-day is not merely one of dieting. To the masses the feast-day is a day of general rejoicing, of holiday-making and recreation, of whose "observance" some special religious service forms a part but by no means the whole. A good illustration is the common English way of observing Christmas, which consists in going to church in the morning and the "matinee" in the afternoon. On the other hand, the due observance of a fast-day involves some self-denial in other than the matter of food, an extra seriousness, and if retirement into the closet be not practicable, then a confinement of activity to the necessary duties of business.

Nobody has ever denied that Sunday has been observed as a feast-day and not as a fast-day by all who have observed it from the beginning. It is so now on the continent of Europe; it was so in England when the Brownists appeared with their new doctrine. By common consent work was suspended and the churches were filled in the morning and often in the evening as well. The intervening time was spent

in play and sport. It was not the *observance* of Sunday, then, but the *manner* of its observance, which it was the Brownist's mission to enforce. It has been said that work was generally suspended by common consent, but *play* was not. That Sunday *play* and not Sunday *work*, was the special object of the Brownist's antipathy is sufficiently shown by the history of the controversy. King James's famous proclamation announced to his subjects that they should not be molested in their Sunday sports; evidently the question of interfering with work was not broached because as a matter of fact work was voluntarily laid aside. During his reign a bill was introduced to prohibit, not Sunday work, but Sunday play, which the king requested Parliament not to pass, as it was inconsistent with his proclamation. And afterward when the very first Brownist Sunday law was enacted, it contained no reference to work whatever, but merely forbade the going outside of one's parish on Sunday to engage in "bear-baiting, bull-baiting, interludes, common plays, or other unlawful exercises and pastimes."

But here comes in the originality of the Brownist, for which neither friends nor foes have hitherto given him his due credit. The Brownist never deliberately denied that Sunday was a feast-day. But he promulgated the extraordinary, and, as has been said, altogether original idea that the proper way to observe such a day was not merely to abstain from work but to abstain from play as well. The evidence is clear, not only from the early Brownist legislation, but from the laws of our States on this subject, that Sunday play always was, and is still, at least as objectionable to the Puritan as Sunday work. Nay, the conduct of those to whose activity the occasional prosecution of Sunday-law cases in our day is due, affords good ground for the assertion that of the two things they would rather give up the prohibition of work than the prohibition of play.

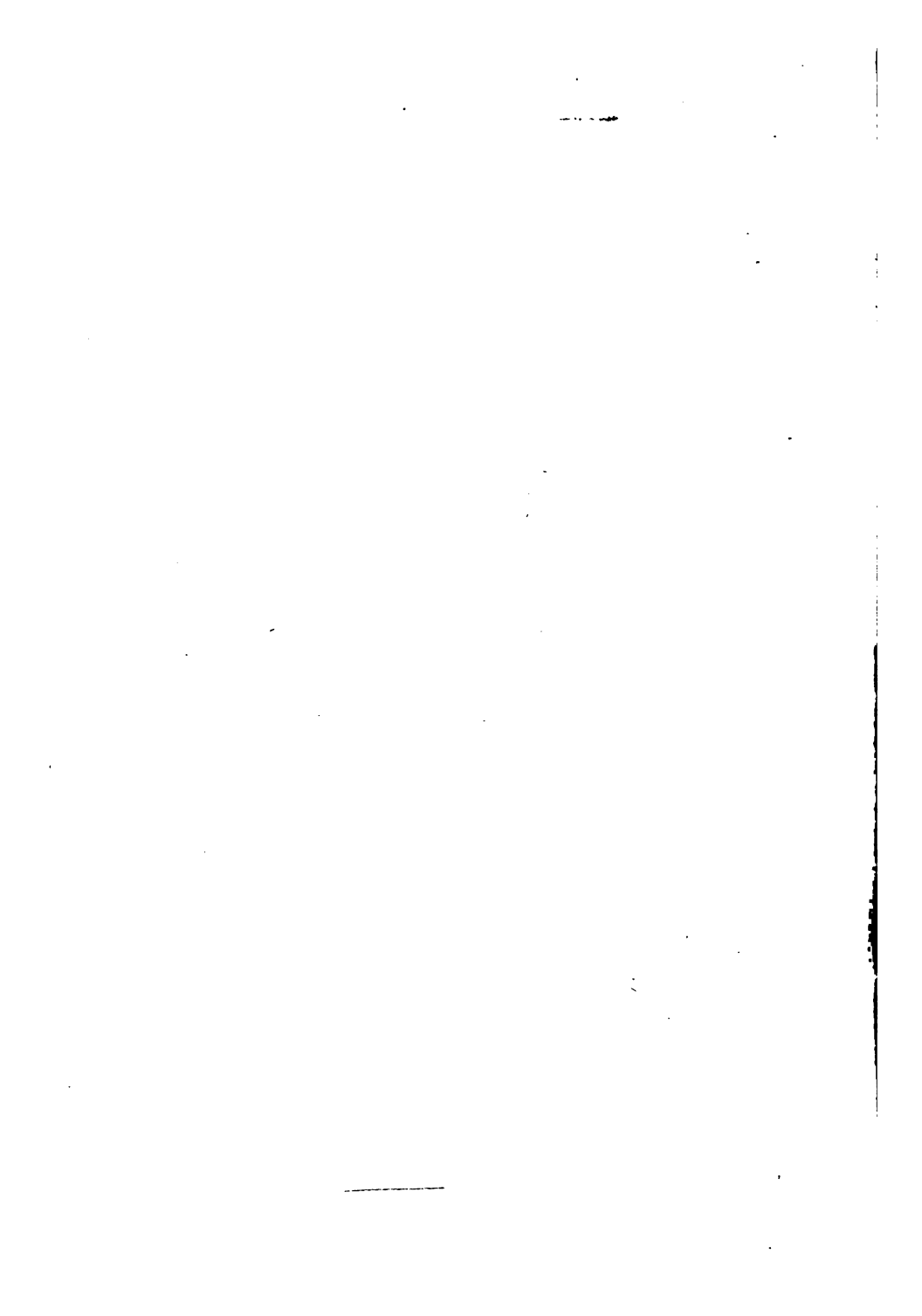
Here, then, is the great original and absolutely unique conception of Brownism — a feast-day to be observed by refraining from work and labor and from enjoyment as well ! Not merely a Sunday of idleness *but a Sunday of idleness and gloom* is the ideal of the Brownist. If the conception is unique, the way in which he arrives at it is astounding. It forms in fact one of the most extraordinary chapters in the history of ideas.



PART II.

THE MORAL ASPECT OF THE QUESTION.

OBJECTIONS TO SUNDAY LAWS ON ACCOUNT OF THEIR INSPIRATION AND
CONTENTS—THEY ARE IMMORAL AND DEMORALIZING IN EVERY
ASPECT, AND AS EVIL IN THEIR RESULTS AS
THEIR ORIGIN WOULD INDICATE.



CHAPTER I.

The Objection to Sunday Laws that they Promulgate the Falsehood that Sunday is "The Sabbath."

THE preceding chapters have been written with the view of discrediting Sunday laws in the United States as far as possible, by proving that such laws embody a union of Church and State everywhere, and that in this country they embody the union with the State, of a Church which, judged by the character and conduct of the men who established it here, is not a church to be selected among all others for the national church of America, if we should ever make up our minds to have such an institution.

Closely connected with the historic aspect of our subject is what may be called its moral aspect. The inspiration of these laws being a union of the Brownist Church with the State is evidently an un-American and undesirable inspiration. But we are now to examine this inspiration on its merits, and to discover from the records that the Brownist dogma, which is embodied in our Sunday laws, is a false dogma, and that, therefore, the Church united with the State by Sunday laws is a false church, built on quicksand, and not upon the "Rock."

To show that these laws are based on misconception and false pretense, and in their very birth are clothed with lies as with a garment, is surely to indicate a first and very serious objection to them. If religious dogmas are to be kept on American statute books, they surely ought not to be such as are refuted by the only authority relied upon for sustain-

ing them. If we are to maintain the union of Church and State in the Republic, let us at least have the Church honest and truthful in the teachings to which it asks the State to enforce a compulsory deference. Now the proposition in hand is that the Brownist Church is not honest and truthful in its dogma of the idle and cheerless Sunday, which it insists that the State shall force upon the people. Let us look at the record.

The Brownist began by rejecting all tradition, and in particular the traditional feasts and fasts of the Church, such as Christmas, Good Friday, Ash-Wednesday, Lent, etc. He made a specialty in fact of ostentatious disrespect toward all these anniversaries. The annalist of the "Pilgrim Fathers" tells with equal pride how they observed their first "Sabbath" in America, and how they were at pains to dishonor the Christmas that followed. Rejecting, then, all tradition and especially traditional feasts and fasts, the Brownist avowed that he held to the "written word" alone, meaning thereby the books recognized as canonical by the English Church, though he violently repudiated the ecclesiastical authority of that church, including, of course, her right to settle "the Canon of Scripture" and to say what "books" were, and what were not, properly included therein.

Calmly ignoring the trifling inconsistency of denying the jurisdiction while relying on the decree, the Brownist, then, appealed to his "written word" for the sacred obligation of his idle and cheerless Sunday. He was thus compelled to face a dilemma from which a less resolute fanaticism than his might have recoiled. For nothing is more completely and essentially a matter of tradition than the observance of Sunday. In the "written word" by which the Brownist declared his willingness to stand or fall, there is absolutely no mention of the day whatever, except as a calendar date, under the name of "the first day of the week;" for no honest person who knows anything of the subject, will indorse the de-

liberate falsehood printed in the American Sunday-school Union's "Bible Dictionary,"—that Sunday is alluded to under the name of "the Lord's Day" in the Bible,—any more than he will indorse that other deliberate falsehood printed along with it,—that Christ transferred the obligations of the fourth commandment to Sunday.¹ Nowhere in this "written word" is there the slightest reference to Sunday as a "holy day" or the faintest suggestion regarding an obligation to observe it in any manner, or for any reason whatever. In fact, there is no injunction to observe any weekly anniversary but one in the Bible; and that day bears a similar relation to Sunday to that which Monday bears, being the next day before it, as Monday is the next day after it. And if that injunction had named the *second* day of the week as it does name the *seventh* day, there would have been just as much reason for applying it to the first day as there is in its actual relation.

But difficulties like these do not affect minds of the Brownist stamp. As Sunday was not mentioned as "holy" in the Bible, and as only one day was so mentioned, the Brownists took the name of that day and applied it to Sunday, which thus, by a mere change of nomenclature, became "the Sabbath." Thus, when the Sunday law of 1621 was under discussion, it was proposed to entitle it "An Act for the Better Observance of the Sabbath day, commonly called Sunday." One rash defier of the Brownism which was then gradually supplanting the English Church as a State establishment, and had already risen superior to the calendar, suggested that as *dies Sabbatorum* was Saturday, the proper title of the bill would be "An Act for the Better Observance of Saturday, commonly called Sunday." For this simple amendment in the interests of verbal accuracy, he was reprimanded on his knees and expelled from the House of Commons.

¹ The deliberate falsehoods printed in the "Union Bible Dictionary" regarding Sunday and the Sabbath are considered in Chapter III of this part.

Now though the word "Sunday" does not occur in the English version of the Bible, the word "Sabbath" does, as well as the plural form "Sabbaths." And both the singular and plural are used only in connection with the Mosaic cult.

The reason why the other Jewish anniversaries have been neglected, and the weekly day alone regarded by Christians, is obvious. The weekly Sabbath alone is mentioned in the ten commandments. All Christians believe that the Jews were the custodians for centuries of a body of divine truth for the benefit of all mankind. How much of what was in terms delivered to them, is literally binding for all time and all men, has been a matter of dispute; just as among the Jews themselves there is a difference of opinion as to what was intended to be confined to the stay of the people in Palestine, and what was designed as law for the race forever. There is a common consensus as to nine of the "commandments" that they are "of perpetual obligation." The Brownist's peculiar insistence for one half his Sunday—the idle half—is that the other, or fourth commandment, is equal to the rest—that it is of universal application. Many careful students and clear thinkers agree with him so far; but none outside of those sects who are permeated with the spirit of Brownism imagine that it can have any application to any other day than the day expressly mentioned in it, that is to say, the last day of the week. Hence council after council of the early Church, in passing regulations for the observance of Sunday, speaks of it by its common name in those days, *dies dominica*; they would, in fact, not have been understood to refer to anything but Saturday if they had mentioned *dies Sabbatorum*, for the simple reason that that was its name in those days, as it was in the days of the Brownists.¹

¹ See these decrees collected in "Sunday," etc. "The only words used in England before the existence of Puritanism were Sunday and Lord's Day."—"*Notes and Queries*," July 21, 1855. This interesting paragraph shows how "Sabbath" has never to this day lost its Hebraic signification in Spanish, Portuguese, Italian, and French. The Russian word for Sunday, the writer informs us, means "resurrection." The Germans call

We find then the serious objection against Sunday laws that in their origin and maintenance in the United States, they are the fruit of the falsehood of the Brownists that they rejected the feasts, fasts, and other "trumperies" of the "apostate church;" of the further falsehood that they rejected all tradition and held to the written word only; and above all, the insuperable objection that they promulgate the abject falsehood that Sunday is "the Sabbath."

Saturday *Sonnabend* (the eve of Sunday) or *Samstag*: this last word has apparent reference to the "assembly," or "Sabat" of the French. This was the witches' gathering, supposed in the Middle Ages to be held on Saturday nights. It is said that the habit the Jews had of meeting at such times gave rise to this superstition and to the use of "sabot" in the sense of "assembly" (Hebrew sabaoth). The fact to be noted here, however, is that in no language in the world save English as perverted by Brownism, would it be possible to speak of "Saturday, commonly called Sunday."

CHAPTER II.

The Objection to Sunday Laws that they Promulgate the Falsehood that Physical Rest is the Purpose of the Christian Sabbath.

THE Brownist dogma of the idle and cheerless Sunday, then, cannot be sustained by the only authority upon which it is professedly based,—the Scripture, the written word alone. Does the fallacy of this dogma lie altogether in the day to which it is applied? This is an important point, to which too little attention is paid by many Christians who are not Brownists. We come now to the second great objection to Sunday laws; namely, the un-Christian and anthropomorphic idea of Deity underlying the Brownist dogma, which those laws embody.

Mr. Tiedeman, in his "Limitations of the Police Power," has struggled, with a devotion worthy of a better cause, to reason others into disagreeing with his own evidently fixed and perfectly correct view that Sunday laws cannot be defended in the United States. Few phenomena in the world of mind are more interesting and entertaining than the manner in which this clear-headed and learned writer proceeds, on page after page, to knock himself down, as it were, with each fresh club he picks up in the way of an argument in favor of these laws. Nor is his plainly apparent consciousness that he *is* knocking himself down and bruising himself all the time without helping his cause one particle, or ever touching "the other fellow," who denies the constitutionality of these laws, by any means the least interesting and entertaining feature of the performance. We



are here only concerned with a very weak and fragile little piece of timber which he picks up toward the close of the exercises, and brandishes faintly, evidently without the slightest reliance on it as a weapon. Mr. Tiedeman then feebly suggests that the "fourth commandment" of the decalogue, on which all Sunday laws are based, "has been claimed with much show of reason" to have been originally a sanitary regulation, and yet more feebly intimates, rather than suggests, that therefore Sunday laws "in the ultimate analysis," as the chemists say, rest upon this same foundation.

Now, it has been claimed,—whether with or without the "show," or even the reality, of reason it is no business of this book to discuss, but at least by scientists of high repute,—that very many of the ceremonial observances of early religions had their origin in an observed physical advantage, gained by doing the things prescribed. They point, for example, to the frequent ablutions inculcated as a pious duty by Zoroaster, to the circumcision of the Jews, etc. And it must be admitted that many other requirements of the Mosaic code besides circumcision, are evidently to be referred to this idea of physical advantage, that is to say, are sanitary regulations, pure and simple. It will be shown hereafter that if Sunday laws *are* sanitary regulations, they are such as no American legislature has a right to prescribe. The question now before us is, Was the weekly Sabbath of the Old Testament prescribed as a sanitary measure? And a careful investigation of the subject seems to compel, from any candid student, a negative answer to this question.

We are told that Deity created the heavens and the earth "in the beginning." In the beginning of what? Not in the beginning of his own existence. Christian theological thought does not permit us to conceive of Deity save as existing "without beginning of days or end of life." Deity is not "semi-eternal," or half-eternal, an entity that once was

not, but shall endure forever. Deity is *all*-eternal—ever was, ever is, ever shall be. Nor, if we could distinguish between rest and work, as applied to Deity,—a point to be considered presently,—are we to suppose that these words “in the beginning” refer to a beginning of active manifestation of Deity, any more than they refer to a beginning of Deity’s existence. “My Father worketh hitherto and I work”—“hitherto,” doubtless of time and space and matter and all things as we know them. “In the beginning,” therefore, can only mean “in the beginning” of the particular manifestation of divine power and activity which we now grasp through our senses, and which is known to us as “the heavens and the earth”—“the beginning of the heavens and the earth was their creation by Deity”—is the only possible significance of this passage for us.

And after an account of the successive steps of this creation of our heavens and our earth, we find the first allusion to a weekly Sabbath in these words: “And on the seventh day God ended his work which he had made; and he rested on the seventh day from all his work which he had made. And God blessed the seventh day, and sanctified it; because that in it he had rested from all his work which God created and made.” Gen. 3:2, 3.

“As to the meaning of the word here translated ‘blessed,’ the commentators are much at variance,” rightly observes Mr. Cox in his “Literature of the Sabbath Question,” Vol. i, p. 3. Dr. Adam Clarke holds that it has the meaning of “to put honor upon” by “speaking well of.”

The word translated “sanctified” really means “distinguished.” The substance of the matter seems to be this: At the fiat of Deity time and space have their “beginning;” for a certain portion of time, the activity of Deity is manifested in calling into space and subjecting to the conditions of time, certain material substances and shapes. Afterward, this particular manifestation of divine activity ceases. The

time when this first manifestation ceased is justly spoken of as "distinguished." It is, indeed, the first great date in the history of our universe, "the day of days."

It has been said that this seventh day is "distinguished" by reason of the fact that a certain mode or kind of manifestation of divine activity then "ceased." It has not been said that the divine activity ceased. Here, again, as we cannot imagine that "in the beginning" refers to a beginning of divine manifestation, save as regards our universe, so we cannot imagine that the words "God rested" imply either a total cessation of divine activity or even anything more than a change in the mode of its manifestation in this heaven and earth of ours.

We shall see presently that it is impossible that such a rest as is here referred to can properly be observed or commemorated by physical idleness or the rest of men; and that no such manner of its commemoration is indicated by the statement that the day of that "rest" was "blessed" and "sanctified," is sufficiently proven by the fact that the curse of labor had not yet been laid on man and beast, and therefore a mere indulgence in physical rest could not have served as a means of "distinguishing" one day from another.

The next mention of a weekly Sabbath day in the Bible is found in Exodus 16, where we are told that no manna fell "on the seventh day," and so on that day the people "rested."

Later came the formal establishment of the Mosaic system, when four Sabbaths or "rest-periods" were enjoined upon the Hebrew people. There was the "jubilee year," which seems to have been mainly intended to give the land the benefit of "lying fallow," as we say, and to prevent its exhaustion by unremitting cultivation (Lev. 25 : 8, etc.), and the Sabbath of the seventh year, apparently designed for the same purpose. Verses 2-7. Compare Lev. 26 : 33-35 and 2 Chron. 36 : 20, 21. And though from the face of the

record it might be claimed that these two occasions were "set apart" for economical reasons alone, yet from other passages, and especially from the New Testament Scriptures, we know that there was a deep religious and spiritual meaning in these as well as in all the other ceremonies and ordinances.

That Sabbath of the tenth day of every seventh month, when not only were the people commanded to abstain from work under penalty of being "destroyed," but as to which it was proclaimed that the soul which was not then "afflicted" should be "cut off from among his people," was not only a religious Sabbath in the strictest and most exclusive sense of the term, but it was the only Hebrew Sabbath which corresponds with our notion of a "fast-day." See Lev. 23 : 27-32.

The only weekly Sabbath was explicitly established by the fourth commandment. Two reasons are given for its establishment. We are told in Genesis that the Deity "rested" from the work of creation on the seventh day ; and in Exodus this fact is adduced as the reason why the Hebrews shall rest on the same anniversary. Ex. 20 : 8-11. But in Deuteronomy the rest seems to be enjoined on this people merely in commemoration of their deliverance "by the Lord their God" from the hands of the Egyptians. Deut. 5 : 12-15. "The double sanction" says Dean Milman, "on which the observance of the day rested, reminded every faithful Israelite of his God under his twofold character of Creator and Deliverer."¹ But this deliverance from temporal bondage was intended to be but a stepping-stone to their knowledge of him as the Deliverer from a greater bondage than that,—the bondage of sin,—as the transactions at Sinai clearly indicate. The evident design of the Sabbath was therefore to keep in the minds of the people the knowledge of God as Creator and Saviour. Ex. 31 : 13, 17.

It is true that it was difficult for many of the Hebrews to rise to this spiritual view of the Sabbath. It would almost

¹ "History of the Jews," Harper's Edition, Vol. i, p. 97.

seem that the temporal aspect engaged their attention to the practical ignoring of the spiritual; and that therefore the character of the day as a national anniversary, or holiday, in modern parlance, took precedence of the religious anniversary or "holy day." Yet admitting all this, yea more, admitting it even as the meaning of the institution, it still remains true that in neither of these aspects is there the slightest reference to physical benefit or sanitary considerations. It would hardly be pretended that the institution of a national anniversary like the Fourth of July was a measure for the conservation of the public health. And certainly no secular consideration can be connected with the purely religious requirement to rest in commemoration of the rest of Deity. And so, Mr. Tiedeman, while correct enough in saying that it "has been claimed" that the Hebrew Sabbath was a health ordinance—as, indeed, what has not been claimed at one time or another by defenders of Brownist Sunday laws?—goes wide of the mark in adding "with much show of reason," the fact being that the sanitary or economic object of the fourth commandment can be claimed neither with the slightest *reality* nor with the slightest *show* whatever of reason.

This, then, was largely the ancient Hebrew's view—that he had exhausted his duty under the fourth commandment when he abstained from work—when he indulged in *physical* rest.

But, now, should the idea of a physical rest, this holiday-making of the day, have anything to do with the Sabbath from a Christian standpoint? Should the failure of the ancient Hebrews to discern the deep spiritual intent of the Sabbath, be repeated by Christians? Should their limited view of the institution be adopted as the divine meaning of the institution, or of the commandment enjoining its observance? That remarkable people, the "Seventh-day Adventists," whose headquarters are at Battle Creek, Michigan,

insist that it should not. Let us briefly consider the ground of their contention herein, with the reservation that the writer speaks without express authority from them, and only from his understanding of their position as gleaned from books and conversations with certain of their members.

There was indeed some excuse for the "holiday" manner of "remembering" the Sabbath by the Hebrews in Palestine. Having been kept so long in the hard and cruel bondage, in "the iron furnace," of Egyptian slavery; and not having been allowed to keep the Sabbath when required to do so by the positive direction of the Lord (Ex. 5 : 4-19); it is not strange that, in their ignorance of spiritual things, their sudden deliverance into complete independence and bodily ease should overshadow the spiritual deliverance, the deliverance from the slavery of sin, which their temporal deliverance was to prepare them the better to appreciate, and of which the Sabbath was to be to them the sign.

But with Christians the case is widely different. Living in the light of all the Scriptures, and of the life of Jesus Christ himself, "God with us," and "Lord of the Sabbath;" knowing through him both Creator and Saviour, the deliverance from the bondage of sin (Rom. 7 : 14-25); knowing in him the power of God to create man anew (Eph. 2 : 10); knowing in him that blessed spiritual rest from the fruitless toil of our own works (Matt. 11 : 28-30; Heb. 4 : 4, 5, 10), — knowing all this, and living in the light of the Christian age, Christians are to remember the Sabbath day, say the Seventh-day Adventists, in the full and deep spiritual significance of the divine precept which the Hebrew mind so largely failed to discern.

"Remember the rest day," say the Adventists, "to distinguish, or set it apart"—for what? For idleness? for physical rest? Would this in any wise answer to the only reasons that have any significance for us? Shall we presume

to liken our physical inactivity to that mysterious rest of Deity, which he enjoyed at the completion of creation, which he gives to the weary, enslaved soul, and which alone the day is designed to recall to our minds? For Christians, say these Adventists, the command is to "remember the rest day," not on that day alone, but all the week, that they may not so weary their bodies as to be unprepared, when it comes, to set it apart, and distinguish it to the utmost of their energies in good works, and in bringing their spirits into the closest possible communion with the Great Spirit of the universe, concerning whose operations in the material world the most wonderful thing of all revealed to us is the rest of the first Sabbath day. It is quite as much a profanation of the Christian Sabbath, the Adventists maintain, to spend it in physical idleness, or rest, or to utilize it as a holiday, as it is to spend it in the pursuit of our ordinary avocations; for, though no man can by searching find out God, and it is not given us to know fully in this world what true significance may attach to the statement that the Creator "rested,"—though we may not understand fully just what his rest was, we may clearly enough appreciate, they say, that there is one thing it could *not* have been, namely, a *physical* rest, or a rest in any sense in which the word can be applied to human beings. For, they argue, as "God is Spirit," the only rest which he could have is spiritual rest. And as it is *his* rest, and *not our own*, which we are to remember and to celebrate, it follows that true Sabbath rest is spiritual rest alone.

This certainly seems unanswerable. But at the very foundation of the union of Church and State lies a gross anthropomorphism which regards Deity as a mere magnified monarch of the human type. And in nothing is this repulsive and blasphemous conception more strongly manifested than in the union of the Brownist Church with the State, which is embodied in Sunday laws. In the very "Sabbath-

schools" of the Brownist faith, the little children are, more or less deliberately — the degree of deliberation is immaterial so far as the result is concerned — taught to think of the almighty Creator of the universe as an overtaxed laborer who "took a day off" after he had called our time and matter into being, out of nothingness! But this, though pure Brownism, as embodied in our Sunday laws, is surely not Christianity. Is it not Christian doctrine, as held by the Seventh-day Adventists and formulated by St. Augustine: "It cannot be that God was spent with his work and needed rest like a man"?

The great apostle to the Gentiles was at infinite pains to develop and impress the essential spirituality of the Master's religion, its entire independence of all forms and ceremonies and external observances whatsoever; and to elucidate the spiritual significance for Christians, of many things contained in the Old Testament books. And upon nothing did he more strenuously dwell in this connection than upon the spiritual nature of the Christian Sabbath. See Heb. 4: 1-11. And our Brownist Christians understand perfectly that the Christian idea of a Sabbath has no connection with physical rest. They show by their actions that they correctly apprehend the spiritual nature of the occasion. They do not rest themselves. They do not allow their children to rest. Many of them will not employ servants who insist on utilizing the Brownist Sabbath for purposes of rest.

On the contrary, the day with the conscientious Brownist is a day of particularly exhausting and strenuous exertion. His ideal way of distinguishing his Sabbath is to spend it in the duties of devotion and in meditation on religious subjects. Now, no one will deny that the duties of devotion are as far from rest, if properly pursued, as any occupation well could be. The act of worship, as it is the highest, so it is one of the most exacting acts within the range of human exertion. It strains the faculties, monopolizes the attention,

absorbs the energies, taxes the powers to the utmost. Nor is the draught on one's capacities much less when the entire mind is concentrated, with or without an open Bible, upon the vast and awful mysteries of revealed truth. Among the Brownist laymen, then, the Hebrew idea of distinguishing the Sabbath merely by indulgence in physical rest is distinctly repudiated. And, indeed, Christian clergymen of every denomination give the lie to the pretense hereafter considered that the Christian Sabbath is a holiday or rest day, distinguishing it, as they do, from other days merely by working much harder than at other times, and, for the most part, so exhausting themselves as to be obliged to set apart a holiday, or keep a Sabbath in the Hebrew sense, on Mondays.

We find, then, a second serious objection to the Brownist Sunday laws in the fallacy—the blasphemous fallacy—which underlies them, that the Creator's rest was physical and that this is “remembered” by physical idleness on the part of his creatures.

CHAPTER III.

*The Objection to Sunday Laws that they Require for their Defense
Intellectual Dishonesty in their Clerical and Lay Advocates.*

So much, then, has been written with the view of discrediting Sunday laws by reference to their source. It has been shown that they represented in Europe a union of Church and State, and that they represent in America the same. It has further been shown that in England and in America the authors of such laws, as we know them (that is to say, with their combined prohibition of work and play), were a detestable sect, hypocritically pretending to a peculiar moral excellence, in reality destitute alike of common humanity and common honesty. It remains briefly to examine Sunday laws on their merits, without reference to their origin, and to consider their right to exist among the enactments of an American commonwealth.

We have seen that the Brownist, having abandoned the written word and gone to tradition for his idle Sunday, returns to the written word only to distort and falsify it. Having violated his own principles in the adoption of the traditional feast of Sunday, the Brownist, like all proselytes, more zealous than those born in the faith, proceeds to attach to the one tradition which he accepts, a degree of importance far in excess of that attached to it by others. He takes, so to speak, all the reverence and respect which other Christians distribute among a number of anniversaries, and concentrates the whole on this one day.

And for the "observance" of this day and the "observance" of it in the peculiar and unique manner of his own

devising, he contends as he contends for no other portion of human conduct. And this is inevitable.

For it is just because this conception of the idle and cheerless Sunday *was* all their own, because it marked them off from all other Christians, and even from other Puritans, and was their great distinctive tenet, that it seemed so vital and important to the Brownists. This is the way with all sects, and is the great bane of sectarianism. In almost all cases, the points of difference are among the non-essentials of the upright life which it is the real business of religions to induce people to lead. But strength is wasted over these non-essentials till little is left for the battle against the real wickedness of the world ; and eyes are strained in the scrutiny of these minute points till the sense of proportion is lost, and small things cannot be distinguished from large things in the conduct of men.

This has been emphatically the case with the Brownists with their idle and cheerless Sunday. There is scarcely one of their kind by whom the idea of "purchasing indulgence" for the rest of the week with extraordinary self-denial on the first day, is not more or less consciously entertained. The essential immorality of this idea is as plain as the strong appeal it makes to one of the greatest weaknesses of human nature. Children, and grown people as well, find it much easier to go to church twice on Sunday and lounge away the rest of the day, than to be kind and gentle, honest and truthful all the other days of the week. And when church-going and lounging on Sunday are elevated to the rank of cardinal virtues, and the Sunday church-goer and lounge is considered as justified in giving himself airs in the presence of one who is neither of these things, but was cheated in a trade on Saturday night by the Sunday church-goer and lounge, then it is natural that men will practice the easier virtue to the neglect of the more difficult one, and fondly imagine that thus they are keeping balanced their "accounts in the eternal

books." But none the less is it immoral because it is natural; and none the less is the spirit of Brownism in this regard exerting an immoral influence over its disciples, and warping the judgment of its preachers, making of them blind leaders of the blind, disqualifying them to appreciate and to teach the relative importance of things in the world of morals.

While making of idleness and cheerlessness on Sunday, positive Christian virtues of the very highest importance, the Brownists have disseminated the impression that the idle and cheerless Sunday *by law established*, is an "institution" so essential to be preserved that it must be defended at all costs. And, as it cannot be defended logically without intellectual dishonesty, they have compelled their logicians to become intellectually dishonest in its defense.

Intellectual dishonesty is manifested in various ways,—by making statements wholly false, as by a false presentation of facts, or by suppression of relevant facts; but above all, by the use of arguments whose soundness the debater has perhaps never considered, and to which, if sound, he himself attaches no consequence whatever; in other words, the adoption of a certain line of reasoning because the user imagines that it will influence another, when the user himself is not in the least influenced by it, and would hold the same opinion if the reasoning were altogether in the wrong direction. Though the general opinion may be otherwise, this last form of intellectual dishonesty seems to constitute the crime in the first degree, and to be more degrading and disgraceful than a mere false or perverted statement of facts. It is the game of the "confidence man" which repels us more than that of the burglar.

But, however we may grade this crime of intellectual dishonesty, the exigencies of Brownism require that it shall be committed in every degree by the defenders of the faith. In the "Union Bible Dictionary," published by the American Sunday-school Union, under the caption "Lord's Day," there is

a reference to Rev. 1 : 10. Here the falsehood is only insinuated,—that the “Lord’s day” mentioned in that text is Sunday. But under the word “Feasts,” falsehoods are explicitly stated as follows: The Sabbath by the Jewish law was observed on the seventh day of the week or on Saturday; but “*Christ changed it to the first day of the week*, which is our Sabbath day, or *Lord’s Day*, as it is frequently called in the *New Testament*, that it might become a memorial of his resurrection from the dead.”

Now two of these three deliberate falsehoods are, of course, apparent to any reader of the New Testament, Greek scholar or otherwise. Because any one who knows how to read and does read the English version of the New Testament, knows perfectly well that the time of the Sabbath was not changed by Christ to the first day of the week nor to any other day whatever; nor was the *significance* of the Sabbath as a memorial of the Creator’s rest ever altered by Christ in order that it might “become a memorial of *his resurrection*,” or of any other event whatsoever. These two falsehoods—that the time and symbolism of the Sabbath were changed by Christ—are so patent and puerile that, *historically speaking*, they can do no particular harm to any but the infant classes in the Sunday-schools. The insinuated falsehood first mentioned—that the “Lord’s Day” alluded to in Rev. 1 : 10, is Sunday, must have been perfectly well known to be a falsehood by whoever wrote and edited this work, assuming that writers and editors were as fit intellectually, as they were obviously unfit morally, to have anything to do with the bringing forth of a “Bible Dictionary.”

But this insinuated falsehood is still “palmed off” on those who are presumed not to know Greek, by such apostles of New England Brownism as compiled the “Union Bible Dictionary.” And a bubble so persistently blown may as well be pricked here, once for all. The Greek word κύριος

(*kuros*) means "supreme authority," and as connected with this idea, "fixedness," "determination," "certainty." From *kūros*, we get *κύριος* (*kurios*), originally an adjective, signifying both "supreme" and "fixed," "determined," "stated." Thus, at Athens the *κυρία ἐκκλησία* (*kuria ecclesia*), or regular, stated assembly, was distinguished from an assembly specially summoned. And the adjective is applied to days by Herodotus and others to signify "fixed," "appointed," "arranged." By a process familiar enough in Greek, this adjective, derived from a noun, came in time to be used as a noun itself, in the sense of "supreme." And so, again, in due course, this noun gave birth to an adjective of its own, *κυριακός* (*kuria-kos*) signifying "lordly," or "worthy of a lord;" i. e., "distinguished," "great," "glorious," "magnificent;" perhaps at first merely "decreed," "fixed," "appointed," in which last sense it is quite likely that the adjective would be used in connection with the equivalent of our "day," on account of the similar use of *κύριος*.

Now, in all the Scriptures, and in all of God's dealings, with mankind, there is known but one day that can possibly meet the requirements of the Greek word used in Rev. 1:10. It is the seventh day, the Sabbath of the Lord; and this does meet every requirement of the Greek word here employed. That day is declared to be the sign of "supreme authority" — the sign of the true and only living God, the Creator of all things. Eze. 20:20; Ex. 31:17. It is a "fixed," "stated," "determined," "appointed," "regularly recurring" day to be remembered and observed to the Lord. It also conveys in itself the idea of "worthy of the Lord," for he not only plainly calls it "My holy day" (Isa. 58:13), but its very origin lies in that ineffable procedure of the Lord himself in his "cessation," "resting," "refreshing" from the creative activity, and in "blessing," "hallowing," and "distinguishing" — sanctifying — the day, which made it the Sabbath day. Gen. 2:1-3. This day which Jehovah himself so

honored, which he "distinguished" and made so "great" and "glorious" by attaching to it his own divine character — this is the day which is indeed "Lord-like," "worthy of the Lord." It is impossible to conceive of any other Greek term which would have so fully expressed the divine meaning of the Sabbath of the Lord. And nothing can be more certain outside of mathematics than that the phrase in question could not have been understood as designating Sunday by the early readers of the Apocalypse.¹

It has been said that such deliberate falsehoods as that Christ altered either the time or the symbolism of the Sabbath, do no harm *historically*, outside the infant classes in the Brownist Sunday-schools; so, historically speaking, no scholar is the worse for being told the deliberate falsehood that Sunday is referred to as "the day of the Lord" in Revelation. But the moral injury done by printing deliberate falsehoods in a "Union Bible Dictionary" is incalculable. Let us remember that the book concerning which these deliberate falsehoods are told is the Bible. Let us remember that the One who is thus belied is the Master. Let us remember that the book in which these deliberate falsehoods are printed pretends to be a help to the young in the understanding of the history and nature of the Christian religion; and is published and circulated by a society ostensibly engaged in the work of "evangelizing" the world,— for, remembering these things, we shall be prepared to estimate justly the sacrifice of moral sense and self-respect which Brownism requires in those who undertake the defense of its dogma of the idle and cheerless Sunday. After a while the children in whose hands the "Union Bible Dictionary" of the Brownists is put, come to think for themselves, and to understand the true character of these statements; and what must be in their esteem the character of the Brownists who

¹ It is worth noting that this is the only instance we have in the New Testament of the use of the adjective form κυριακός as applied to a day.

manage the "American Sunday-school Union" when they apply to these the principle "*Falsus in uno, falsus in omnibus*" ?

The last mentioned form of intellectual dishonesty, that of using arguments which have no weight with the user,—in other words, of pretending to favor a thing for certain reasons when we really favor it for other reasons exclusively,—is thrust upon our attention very frequently of late in the discussion of the Sunday-law question. The Brownists desire to maintain the idle and cheerless Sunday by law established, because it is a peculiar and distinctive dogma of their sect, and its establishment by law, constitutes *pro tanto* a union of the Brownist Church with the State. But the fact that such a union is represented in an idle and cheerless Sunday by law established, is surely, however slowly, becoming apparent to the American people.

The Brownists understand this perfectly well. Hence, to save their "institution" of the idle and cheerless Sunday, they are of late protesting with exceeding earnestness that it is, in reality, no institution of theirs at all. A union of Church and State, indeed ! Nothing could be farther from their thoughts. It would be "un-American," and the Brownists would sooner perish than countenance or advocate anything un-American. All they want, they assure us, is the "secular Sabbath." It is "sanitary considerations" alone that move them. It is the poor, struggling, over-worked laboring man with whose interests they are concerned. Their motives are of the earth, earthy ; and in their zeal for the maintenance of the idle and cheerless Sunday by law established, there is no taint of religious impulse. It is merely an accident, you see, that the "secular Sabbath" they are trying to keep in the law happens to be Sunday ; it is merely a "factitious advantage," as a certain United States judge observed, that is enjoyed by those whose sacred day is selected by the State for "recognition" over those whose sacred days

are unnoticed by the civil authority. There is no "preference" of one sort of belief over another in this distinction, they plead. The day is to be "preserved" for the sake of the race, which would perish from off the earth through overwork if we were to do away with the idle and cheerless Sunday by law established.

In judicial construction this "secular view" is embodied in the expression, "the courts must view Sunday as a holiday and not as a holy-day." The utter inconsistency of this view with the history and contents of Sunday laws is shown elsewhere. What we are here concerned with is the detestible hypocrisy, the gross immorality, of the Brownists who urge it.

For these are intelligent and educated men. They are, indeed, the most acute and discerning in the ranks of Brownists. As such, they have been the first to realize that the old theological defense of the idle and cheerless Sunday is no longer available, that the spirit of inquiry and investigation which is so characteristic of our age is exerting itself on this subject as on all others, and is unmasking the Established Church of Brownism which lurks behind that "institution," — in a word, that the ground must be shifted, and a new position taken, if the battle is not to be lost forever. We are therefore obliged to compliment the acuteness and discernment of these men, at the expense of their moral courage and their sincerity. For no intelligent man can urge without the consciousness of intellectual dishonesty, the argument that Sunday laws are either passed or enforced for the physical benefit of "the poor laboring man" or anybody else.

No real supporter of these laws can persuade himself, even by trying to persuade others, that either he or his fellow-Brownists of the past or present time care in the least for the physical benefits which may or may not result from the enforcement of the idle and cheerless Sunday. All Brownists know perfectly well that their idle and cheerless

Sunday was originally established in England as a theological institution and without any reference whatever to physical considerations; that wherever it is established in the United States, the motive of its establishment is a religious motive, the stimulus of its enforcement is a religious stimulus, and no regard for social and sanitary results inspires its advocates. They know that if it were demonstrated that their idle and cheerless Sunday is a positive injury to the bodies of men, and a disorganizing social influence, their zeal for "the day" would not in the least abate, and that they would simply regard whatever inconvenience it might entail on the individual or the body politic, as "a suffering for righteousness' sake."

Knowing all this, are they not clearly guilty of a high and execrable degree of intellectual dishonesty when they pretend that the object of Sunday laws is the physical betterment of the race, and that they are supporters of these laws for any such reason? Cato wondered how one auger could look another in the face without laughing. It is difficult to understand how any intelligent Brownist can use this secular argument for the idle and cheerless Sunday without blushing at his own insincerity. But whether the red signal flag of the blush is flown or not, the corruption exists within. The man is false to himself. He has prostituted his intelligence. He has sold his soul. He has done evil that good may come. He has undertaken to obtain under false pretenses the "goods" of idleness and cheerlessness on the first day of the week. And a soul that has once been bartered is ever thereafter in the market. A clergyman who is compelled in the defense of a dogma or tenet of his sect to be intellectually dishonest, ought to resign; for nowhere does *falsus in uno, falsus in omnibus* apply more absolutely than to such a case. If he once plays fast and loose with his own spirit, at the dictation of tradition or convention, he will do it again at the command of interest or desire. The consciousness of

his own degradation will never leave him ; no second baseness will lower him any further in his own esteem. He has lost his bearings on the ocean of morals. How is he safely to steer any longer, either for himself or others ?

The untiring zeal and determination with which the Brownists have defended and propagated this distinctive tenet of theirs have been rewarded. Their intellectual children are everywhere. Sects differing on almost every other point connected with popular Christianity, vie with each other in their insistence upon this one. On no subject of fanaticism are the victims more wild, unreasoning, and bitter. The intellectual dishonesty which Brownism demands of its followers in this regard is by no means confined to the pulpit. Men of other callings who are ordinarily above the suspicion of insincerity, and who prove themselves capable of weighing other public questions with discrimination and judgment, will gravely affirm that it would be impossible to maintain the social order if we should dispense with the idle and cheerless Sunday. They will prate of the "secular Sabbath," "the overworked laboring man," "police regulations," etc., etc., being all the while perfectly aware that they are guilty of false pretenses, and are throwing a mask on this dogma of Brownism and seeking to keep it in the statute-book by imposition, and by making it appear to others that it is a certain thing and has a certain purpose, when they know that it is no such thing and has no such purpose ; and that, if it were any such thing or had any such purpose, they would not care in the least either for the passage or the enforcement of a Sunday law.

But now that we have spoken thus severely, yet truthfully, of intellectual dishonesty, let us add that it is with no idea of imputing this quality in any particular case. Self-deception is quite as common as the deception of other people. It is common among the wise as well as among the silly. Many a man sincerely believes that he holds to an idea

or supports a cause for the reasons he gives you, when in reality he is influenced by others totally different, or perhaps by no reason at all, but only by heredity, environment, self-interest, etc. The question whether intellectual dishonesty is consciously, deliberately, willfully practiced in any particular case, like all other questions of moral responsibility, must be left to that great Judge "unto whom all hearts are open, all desires known, and from whom no secrets are hid."

And there are not wanting here "extenuating circumstances" in the cases of both clergy and laity. The tendency of the religious system of any country, as is well known, is to identify itself with existing institutions and customs. The Church, be it pagan, Mahometan, popular Christian, or what not, is instinctively a conservative force. It dislikes change, and seems to scent some danger to itself in every "new-fangled notion" that comes to the front. Its preachers are of the atmosphere in which they live. Summoned to defend "the thing as it is," they deem it part of their duty to defend everything as it is. This conservative work is one of the grand functions of popular religion in the world. There are those who derive the word "religion" from two Latin words, so as to make it mean that which "holds back," or "restrains," men. Whether the etymology be correct or not, it is an indisputable truth that just as religious scruples prevent an individual from yielding to temptation, so the influence of the perverted religious sentiment in all ages has been to restrain the community from sudden and violent alteration of its ways in general and in particular.

But, as with reference to the individual, so with reference to the community, we must bear in mind that religion is not everything. Mr. Matthew Arnold rightly says that the main concern of religion is conduct, and he added that conduct, is "three fourths of human life." Afterward he admitted that the proportion was perhaps too largely stated. Be that

as it may, we know that the religious sentiment or impulse is often strangely perverted to the detriment of individual character. This mainly happens from its exaggeration, and its misapplication to matters with which it has no real and proper concern. Great injury is also done to communities by like means. Thus, it is good to criticise, analyze, view from every side and in every part any proposed change in the State's manner of living, its laws and institutions; and so far as the conservative force of the Church in its broadest sense is exerted to compel this criticism and analysis, its work is invaluable, and its mission a grand one.

But, on the other hand, this criticism and analysis of any proposed change is not merely our right, but it is our duty. Change is necessary to progress; and when any change is proposed, we wrong ourselves if we do not examine its merits carefully and fairly, and with the determination to accept or reject it according as it may finally appear to us to represent progress in a right or a wrong direction. The religious sentiment or impulse, then, is exaggerated to the detriment of the community, when, as is too often the case, it seeks to brand change as wrong in itself, and to block in advance the discussion of any particular change proposed, and the examination of it upon its merits. An excellent illustration of this exaggerated working of the religious sentiment as a conservative force is found in the use of that pet phrase of the Brownist clergy, "an American Sunday,"—as though a thing were necessarily good because it is "American" or necessarily bad because it is European. They aim, by the use of that phrase, to *excite the people's emotion* in advance, upon the subject, and thus to prevent them from approaching it in a calm and judicial frame of mind; they would misuse the patriotic impulse to stifle the working of clear thought, and to brand a proposed change as undesirable for the utterly irrelevant reason that it is "foreign," and thus to block its consideration and discussion upon its merits.

Again : besides the exaggeration of the religious sentiment or impulse in seeking to prevent us from comparing the European Sunday with our own upon the merits, there is either a misapplication of that sentiment or impulse to a matter with which it has no proper concern, or else the union of Church and State embodied in the Sunday laws must be conceded. Failing to block the comparison of the American Sunday with the European Sunday upon the merits, the religious sentiment or impulse is invoked to affect that comparison and to bias the minds of the people in making it. If the making of it is a matter with which religious sentiment has any proper concern, then it is a religious matter. And as it is a fact beyond all honest dispute that religious sentiment is the sole concern in this whole matter, it follows that our Sunday laws are religious laws only, and therefore they embody the union of Church and State.

CHAPTER IV.

The Objection to Sunday Laws that they Require for their Enactment Intellectual Dishonesty, and a Non-legislative Frame of Mind in Legislators.

BECAUSE the Brownists have tainted so many different religious denominations with this Sunday dogma of theirs, they have spread the vice of intellectual dishonesty through our legislative halls, and made our judges the victims of its demoralizing influence.

Let us take the case of the legislator first, and assume that a Brownist lobby is striving to induce him to vote for a Sunday law. Here are two influences at work, or rather the same influence is here at work in two directions. And it works in both directions in two ways. The first direction in which it works is this: It leads or drives the legislator toward the prejudice that there is, somewhere or other, a divine command that men shall be idle on Sunday. And it leads or drives him in this direction in two ways, through the Brownist *Zeitgeist* of the past and of the present. Through the Brownist *Zeitgeist* of the past; because from this it has resulted that the legislator, by heredity and by education, is disposed to believe that there is such a divine command as here mentioned. And this is the way in which it works from within. Through the Brownist *Zeitgeist* of the present; because he finds a very respectable number of presumed "experts" strengthening his inward impression that such a command does exist. And this is the way in which it works from without. And so the Brownist *Zeitgeist* of the past and of

the present, working from within by predisposition, and from without by the urgings of its representatives, by human agency leads or drives the legislator toward another prejudice, namely, that there is an intimate and necessary connection between the enforcement of this divine command — or in other words, the existence of a Brownist Sunday law — and the common weal.

Between these two prejudices there is an intimate, though subtle connection, born of the spirit of Brownism. The idea that the divine command needs to be enforced by human agency, and that we are the persons charged with the mission of enforcing it, is the very essence of Brownist religion. The intellectual children of the Massachusetts Brownists adhere still to what has been truthfully given as "the first Plymouth platform : " —

Resolved, first, That the just shall inherit the earth ; *Resolved, second,* That we are the just.

But we will consider these two prejudices separately. Does the prejudice that there is somewhere a command of Deity that men shall be idle on Sunday, place a legislator in a non-legislative frame of mind toward a Sunday law ? This result does follow, though illogically. It has been well observed that the power to work miracles would not in any wise whatever imply either the ability or disposition to tell the truth ; and yet that if any man habitually worked in the presence of others what these last esteemed to be miracles, they would believe almost anything that the supposed miracle-worker might choose to tell them. So, while there is really no connection between the existence of a divine command for Sunday idleness, and the obligation of a legislator to vote for a law enforcing such idleness on other people, it is undoubtedly true that, once a legislator is convinced that this command exists, he is strongly swayed, hereditarily and by environment, toward the conviction that it is *his* duty to vote for such a law. And it is also plain

enough that this is a non-legislative frame of mind and that it implies the union of Church and State.

The legislator who is induced to vote for a statute by the idea that it embodies a command of Deity, drops his character as a legislator altogether and undertakes to act as the enforcer of the will of the Deity upon other people. This is no part whatever of his duty as a legislator, which is to legislate for the good of the people within constitutional limitations. And, however strongly he may be convinced that there is a divine command for Sunday idleness, and that it would be for the good of the people to have that command embodied in a statute, yet he breaks his oath as a legislator, and is in reality no legislator, but a religious propagandist, when he undertakes by his vote to do the people that good by violating the restraints laid upon his conduct as a legislator by the Constitution. It is to this that he has sworn allegiance as a legislator, to this alone that he owes his existence as such, and to this alone may he rightly turn for the definition and limitation of his duties. And any statute whose provisions by their very nature cause the mind of the legislator, when pondering his vote upon it, to go outside of the Constitution altogether, and to determine his course by his conclusions on the question of whether the statute does or does not embody a command of Deity,—any such statute causes the legislator to break his oath of office. And when it becomes a law by means of legislative votes cast in its favor because of its supposed embodiment of a command of Deity, it sets up the union of Church and State and gives *pro tanto* a preference to one religion over another.

Let us look at this matter a little closer. Some men decline to admit a Deity; others deny that his will is anywhere recorded; some insist that it is recorded in one place and some recognize it in another. "Let every man be fully persuaded in his own mind." For the man himself, of course, when he has found it, the expression of the will of Deity is

- enough ; he recognizes his obligation to obey, and he thinks other men ought to obey also. But here we must discriminate between the legislator and the man. Admit that the man is right, and that he has found an expression of the will of Deity ; admit, further, that the men who compose the membership of the legislature ought to obey that will. What is that will, as expressed in the case in hand ? “ Remember the Sabbath day, to keep it holy.” Every man in the legislature, and every man outside of it, ought to obey this command of Deity. If the way to obey it is to be idle on Sunday, then legislators and all others ought to be idle on Sunday. But, observe that there is no distinction whatever in this regard between legislators and others. Both obey or disobey the command of Deity in the same manner precisely. And why ? *Because this command of Deity, like all other such commands, is addressed to the individual, AS AN INDIVIDUAL, without any regard whatever to his official character.*

Honesty, purity, fidelity, are demanded by the will of Deity in all men alike and in the same degree, without reference to social or political distinctions. But if no more is demanded of one man than another by that will, it follows that when a man through the human agency of voting becomes a member of the legislature, while he takes upon himself an entirely new set of obligations and duties with reference to the community, from which a non-member is free, yet his duty to Deity remains just what it was before. The *man* is the creature of Deity ; he must obey the will of Deity. The *member* is the creature of the State ; her will is his law. Thus, before a man becomes a member of the legislature, he is under obligation to obey the will of Deity and “ remember the Sabbath day to keep it holy ; ” but after he becomes a member of the legislature, he is under no additional obligation whatever in this regard. And, as the legislator does not assume any new duty toward Deity, as he undertakes no new functions in the domain of religion by reason of his of-

ficial duties, so he thence acquires no new rights or privileges in that domain. If he had not, as a private citizen, the right to enforce in others obedience to what he considered a divine command, then *he does not get that right by virtue of his election.*

The special right he thus acquires is of civil creation and of a civil nature altogether, and therefore to be exercised for civil purposes alone. It is the right to force on others to the extent of his vote, obedience to his notions of the dictates of worldly wisdom, for the sake of worldly welfare alone, and even this only within the limits of constitutional restrictions. And, as the legislator, as such, has no religious duties or privileges, of course there are no commands addressed to him *as such*, in the Book of Christian religion. To take the case now under consideration : It is nowhere commanded, "Thou shalt vote for a law to compel other people to keep holy the Sabbath day." Upon this point the legislator is as free regarding his action from any command of Deity, as he is regarding his action on a tax bill. Of course he is commanded by Deity to discharge his duties as a legislator conscientiously, as he is to discharge all other duties ; but the will of Deity is nowhere expressed as to what his duties as a legislator are. Their definition and limitation are a matter of human constitutional law entirely.

The will of Deity as to specific legislation has never been publicly revealed but once, and that was under the "pure theocracy" of the Jews. And even under that system, the legislation was not directed to be enacted by human agency, but both the law and its penalties were specifically revealed. It is as arrogant—shall we not say it is as blasphemous?—in a modern legislature to claim divine sanction for one of its enactments as it would be for a railroad company to assert the same inspiration in the selection of a particular route by its board.

Well, then, may we not say that a conscientious legisla-

tor, pondering his vote on a proposed Sunday law, with mind undarkened by the clouds of Brownism, and sincerely desiring to fulfill the will of Deity, would in his official action commune with himself somewhat after this fashion? "It is the will of Deity that I shall herein discharge faithfully the duty I owe to the State, which the State has defined for me, and which I have expressly pledged myself to perform. I am not at liberty to judge for myself what that duty is, unless in cases where my employer, the State, has failed to define it for me. Is this such a case? I cannot shut my eyes to the fact that this question of a Sunday law is a religious question. The character of its advocates, the fact that they consist exclusively of professional religionists, male and female, sufficiently demonstrates that; the nature of the arguments these people use in favor of the law, simply confirms what is already clear from their pressure and their zeal. Now, the State has defined my duties, which it is the will of Deity that I should perform, in the constitution. Let me look at that, and see what my duty is, as to legislating upon religious questions. The constitution says, 'No preference shall be given by law to any religion.' This means that my duty as a legislator is to vote against the passage of any law which gives a preference to any religion.

"Now, let me turn from the examination of the constitution, and examine myself for a moment. I know that these professional religionists are here urging the passage of this law for the reason, and for the reason *alone*, that they believe it will give a preference to the particular religion which they profess over all other religions. Do I not also know perfectly well, in my own mind, that this belief of theirs is entirely correct? Am I not conscious that my inclination to vote for this law is based purely on my knowledge that it *will* give a preference to their religion, and my desire thus to oblige a number of good citizens? But stop, there is another basis for this inclination of mine.

Away down in the depths of my heart, there is a strong hereditary sympathy with the kind of religion these people profess. I may not live up to it—as many of them probably do not—in respect to Sunday observance and in several other respects, but I have still a ‘preference’ for it. As part of this religion, I have been taught to believe that there is a command of Deity that men shall not work on Sunday, and I should like to see all men obey the commands of Deity. Am I not, then, in great danger of allowing my own preference in the matter of religion to influence my vote on this bill? On the other hand, if I feel that it is this preference of others which alone inclines me to vote for the bill, then is it not evident that, to my own inner consciousness, the bill does embody a preference of one religion over another? But, if it embodies such a preference, it violates that Constitution which I have sworn to support. It is the will of Deity that I shall not break that oath. Now, will it matter in the least in His eyes whether, in the breaking of it, I vote to give a preference by law to the particular religion which I happen to profess, or to some religion professed by other people?”

The correctness of this line of thought cannot be impeached. It discriminates with right morality between the duty of the *individual*, which is to give a preference to the religion that he believes to embody the will of Deity, and the duty of a *legislator*, which is to vote against any law that gives a preference to his own religion or any other, as against all laws that violate the constitution under which alone he acts as a legislator. It distinguishes justly and properly between the man and the member. It is the reasoning of intellectual honesty, as opposed to the guidance of intellectual dishonesty, consciously or unconsciously inducing the legislator to regulate his official conduct by another standard than that to which he has sworn that he will conform.

CHAPTER V.

The Objection to Sunday Laws that to Sustain them Requires Intellectual Dishonesty and a Non-judicial Frame of Mind in the Judges.

WE have seen that the Brownist influence places our legislators in a non-legislative state of mind when it seeks to have them pass a Sunday law. No less baneful is its effect upon our judges when it seeks to have them sustain and apply such a law. In dealing with the question of their sustainment and in dealing with the question of their construction and application, a judge dominated by the Brownist influence is in a non-judicial frame of mind.

And first of the question of sustainment. The judicial frame of mind requires that a judge in ruling on the constitutionality of a statute shall be governed by the constitution alone, without the slightest reference to the wishes of the people as expressed otherwise than through that instrument.

The people may change the instrument as their will may change ; the judge must follow the will as therein laid down. But judges are human, and, like other men, are under the influence of the *Zeitgeist*, or what appears to them to be such. And the Brownist religious sentiment has been so strenuously busying itself with this question ever since it obtained a foothold here that the *Zeitgeist* in America has seemed to set against any fair discussion whatever of Sunday laws.

Many persons desire the maintenance of these laws at any cost in the way of suppression or perversion of their fair consideration. And, while the balloting on such questions as Sunday street-cars, etc., has more than once indicated that

in an American community of any considerable size, the "Sunday-law-at-any-price" men (whatever may be the case with the women) are a minority of the total population, they are a very large majority of the "fussy," aggressive, meddlesome folk; they make a noise in the world out of all proportion to their real numbers and importance; and so they are too often mistaken for real representatives of the *Zeitgeist*.

It is also true that among the supporters of Sunday laws are included many of their systematic violaters, who are quite sincerely persuaded that they are necessary for other people. But, while it is true that the noise made by the Brownist Sunday-law advocates is out of all proportion to their numbers and importance (it is an old story, "The shallows murmur while the deeps are dumb"), nevertheless, as was said, this noise has its effect, and part of its effect on the minds of our judges is to produce the impression that an overwhelming majority of the people want the Sunday law sustained at any price. And our judges, being human, are thus biased in advance on this question, and caused to *hunt up* reasons whereby the Sunday law may be sustained, instead of examining its position under the constitution without any bias toward one conclusion rather than another. They are acting by their light as servants of the people, trying to do their will. But they forget that for them the will of the people is not to be gotten from Brownist pulpits nor Brownist newspapers, but from the constitution alone. And they are, therefore, in a non-judicial frame of mind.

Another effect of Brownism on judges as well as legislators is, by associating the Sunday law with a supposed special command of Deity, to throw around it a peculiar halo of sanctity, which prevents its calm and critical examination, like other statutes, upon its merits as a statute exclusively. It is like that old subject of secession which senators and representatives for so many years tacitly agreed should not be mentioned in the halls of Congress, though they "talked all

around it," and the people and papers outside openly debated it in every aspect. There is about the idea of "our American Sunday" something of that "sacredness" that certain statesmen used to ascribe to "the Union." To impeach the eternal verity of the Sunday law or question its expediency is to "touch the Lord's anointed." It is evident that no judicial consideration of a statute is to be expected of a judge who approaches the subject in such a frame of mind as this.

The result of so approaching the consideration of a statute is fatally to blind the judge both with reference to the position and functions of the legislature, and with reference to his own position and functions. He comes to look upon the legislature as in some sort the mouth-piece of Deity, and, of course, this renders the expression of its will sacred, and inquiry into the authority of its deliverances rather in the nature of blasphemy or heresy. But this inquiry is one of the chief purposes of his official existence. For him the legislature has properly no connection with Deity. It is simply a part of a machine constructed by human agency for human purposes, and his business is to see to it that the part does not go beyond the purposes for which it was placed in the machine of government. And these purposes are defined and limited by the constitution.

When the question of the constitutionality of a statute is at issue, the judicial frame of mind requires that that question shall be settled by the constitution alone. It no more admits of any deference to a command of Deity, real or supposed, than it admits of deference to a change in the minds of the people, real or supposed, subsequent to the constitution's adoption. So that, if there be a command of Deity recorded anywhere outside of the constitution that a Sunday law with certain provisions shall be enacted, yet this will not render its enactment a legitimate exercise of legislative power, unless it be so under the constitution. And, conversely,

though there should be produced from some source an express command of Deity that no Sunday laws shall be enacted, yet this will not render its enactment an illegitimate exercise of legislative power, unless it be so under the constitution. So that the commands of Deity have nothing whatever to do with the question of the constitutionality of a statute, except so far as those commands may be embodied in the constitution. And when embodied therein, so far as the courts are concerned, they derive all their sanction and force from their embodiment, and no sanction or force whatever from the fact that they are commands of Deity.

Of course, there is a certain sense in which whatever is, is part of Deity's plan for the out-working of mysterious purposes beyond our ken. But when we come, as we must come, for all practical purposes, to discriminate between good and evil, and to say of the first that it is the will or command of Deity, and of the second that it is against such command, we see at once that the will of Deity, in this sense, regards moral questions exclusively. And it is evident that a constitution must deal with many questions which have nothing whatever to do with morals,¹ in other words, it must contain many provisions which are neither moral nor immoral, but are simply outside the domain of morals altogether.

For example, a constitution provides for the number of members who shall constitute a legislature, the manner of their election, etc. Here is a matter on which no man will pretend that there is a record of Deity's command. A constitution provides that there shall be no preference under the law of one religion over another. Here is a matter wherein many important persons consider that there is a flat defiance of Deity's command that everybody (including the State, as "a body corporate") shall give a preference to the

¹ It will be shown hereafter that neither constitutions nor statutes have anything whatever to do with moral questions *as such*.

particular form of religion which they profess over all others. A constitution provides that Sunday shall be excepted in counting the number of days allowed the governor for considering bills. Many consider this as embodying the will of Deity that Sunday shall be kept as a holy day, and that no secular labor shall be performed. But though the first of these three things be not referred to in any recorded command of Deity, and the second be against such command, and the third the expression of his will or command, yet when presented for judicial cognizance, all three of them stand on precisely the same level, are of the same binding character, and are to be regarded in precisely the same way.

And as with constitutions, so with statutes. They, too, must deal with many matters untouched by any recorded commands of Deity. It might be, too, that they would allow or direct that things shall be done which are in the very teeth of the recorded commands of Deity. It might be that they would simply enjoin what is already commanded by Deity. But in neither case has their relation to the commands of Deity the slightest relevancy when the question is either as to their constitutionality or their construction.

The prejudice produced by the influence of Brownism that there is a special connection between a Sunday law and a divine command, blinds a judge as fatally to his own position and functions as it does to the position and functions of the legislature. He comes to look upon himself as in some sort the upholder, the expounder, and the enforcer of a divine command when this statute is before him, instead of regarding himself in his true light, as part of a machine constructed by human agency for human purposes alone, and like the governor of the steam engine, having for his special duty the seeing to it that the other parts operate in a regular and orderly manner according to the law of their being. He begins to feel that Deity, instead of the constitution, is the author of his official being,

to imagine that he has, as judge, a "mission" from "on high," instead of a mere commission from the governor or the people. And for him to falter in such a character, to look beyond this inspiration for guidance, seems like "kicking against the pricks."

And in his case, as in that of the legislator, all this implies a confusion of his personal and his official duty, and he ceases, in fact, to be a judge.

Suppose he is fully persuaded in his own mind that there is a divine command that men should not work on Sunday. It by no means follows that such a belief will justify him in sustaining the constitutionality of a law compelling everybody to be idle on Sunday. The old Hebrew judges decided the guilt or innocence of a party arraigned before them on the charge of violating the fourth commandment, without any reference to its validity, because, like all the rest of the law which they administered, it came from a source unquestioned and unquestionable. That it was a command of Deity which it was their duty to enforce, was a point not to be mooted. It is otherwise with an American judge. He has no *commandments* to enforce. He deals with *statutes*. The statutes with which he deals do not begin, "Thus saith the Lord;" they begin with some such phrase as, "Be it enacted by the General Assembly," etc. And the very first question that he has to consider in dealing with a statute is, Had the General Assembly authority to enact it? And if he permits himself to decide this question with reference to any command of Deity, real or assumed, or with reference to anything whatsoever but the constitution which created the Assembly, and has defined and limited its sphere of action, then he is deciding a judicial question in a non-judicial frame of mind.

His judicial oath included, his position justifies, no such performance. His oath is to support the constitution. If he does not support everything in that constitution, and re-

fuse to support anything outside of it, in his judicial capacity, utterly irrespective of his personal views of what is or is not a command of Deity, then he breaks his judicial oath. If he finds that compliance with his oath forces him to violate a divine command, he may, of course, resign; but he cannot act judicially on the bench and break his oath. Even if there were an express command, "Thou shalt sustain the constitutionality of a Sunday law," no judge of ours could appeal to it as binding on his official action. To do so is at once to decide or judge purely religious questions—the question as to the verity of the command, the question to whom is it addressed, the question of the kind of Sunday law which might be referred to, etc., etc. And a judge who undertakes to decide such questions is setting up the union of Church and State at once; and when he sustains a statute as the result of his conclusions on these points, he is giving effect to a law that grants a preference to one religion over another.

And it may be added that to decide such questions is as impossible as it is illegitimate, for our judges. They have no means whatever of ascertaining what is the will of Deity, nor where it is recorded. They cannot decide for the Jew against the Mahometan that it is recorded in the Pentateuch—or Hexateuch, in modern parlance. They cannot decide for the Christian against the Jew that it is recorded in the New Testament as well as in the Old Testament of the King James version. They cannot decide for the Roman Catholic against the Lutheran that it may be found in the "Apocrypha" as well as in the Testaments recognized by Protestants. Nor, assuming that a certain mandate, couched in human language, could be ruled by the courts to be an expression of the will of Deity, would it be possible for them to authoritatively interpret that mandate when its meaning and application should be disputed; and it is hard to imagine a mandate couched in human language over which such a dispute might not arise.

It will not do, then, for an American judge, any more than an American legislator, to imagine that in his official character he is "an instrument in the hands of Providence." It will not do for him to be influenced in his official action by his private notions of what men ought or ought not to do. He may think it is the will of Deity that men shall not work on Sunday ; but this is not the slightest reason why he should sustain the constitutionality of a Sunday law. He may think it is the will of Deity that no interest should be taken for the use of money ; yet he dare not refuse to give judgment for its recovery in any amount provided for by the law. It is surely the will of Deity that the rich creditor should be merciful to his impoverished debtor ; but the judge must sustain an execution for the uttermost farthing, under the harshest conditions, unless the will of the State, as expressed in its law, allows some exemptions. In short, the will of Deity, so far as the official action of the judge is concerned, is that he shall do his duty, and that duty consists in complying with his official oath to support the constitution.

We see, then, that the judge who permits his view of the Sunday law (or any other law in free America) to be clouded by his notions of what are and what are not commands of Deity, confounds the official character of the legislator with his individual character, and his own duty as a *judge* with his duty as a *man*. And one who does this manifestly approaches the decision of the constitutionality of the Sunday law or its construction, in a non-judicial frame of mind.

And with a conscientious and intelligent judge, as with a conscientious and intelligent legislator, the very fact that he finds in a certain statute what he believes to be the embodiment of a divine command, would arouse suspicion of the statute, and excite to rigid self-examination. He would perceive that the recognition of a divine command, the determination of the question whether any particular command be divine or not, is a religious matter altogether ; and that, in making up his own mind on the subject, he was necessarily

giving a preference to one religion over another. And then he would naturally suspect that a statute which appeals to this preference in him, embodies this preference in its provisions and commits the legislature thereto.

And this suggestion, based on his own sentiments or feelings, would be strengthened, as in the case of the legislator, by the intense interest of certain professional religionists in his sustainment of the statute; and the arguments, before him and elsewhere urged, as reasons for his sustaining it would co-operate with his inner consciousness, to convince him that such a preference was both intended and effected by the statute. And a judge, intellectual and conscientious, putting this and that together,² would soon see that if he sustained the constitutionality of a law either because of his own preference on religious grounds for the conduct it prescribed over any other conduct, or because of such a preference in other people, then he would be necessarily holding valid an act of the legislature which gave a preference to one religion over another, and holding it valid *for that reason*, in the very teeth of the constitutional inhibition of any such preference.

It was said, when speaking of the influence of Brownism on legislators, that it produced two prejudices—one with reference to a command of Deity that men should be idle on Sunday, and one with reference to an intimate and necessary connection between the existence of a Brownist Sunday law and the common weal. This second prejudice also arises from the same influence on the Bench. Its effect upon the legislator is evidently to throw him into a non-legislative frame of mind. For legislation requires that no proposed statute shall be passed, or the repeal of a statute be voted on, except after careful examination of details, within the document and without, an impartial consideration both of

² See the case cited in page 147 of the "Spiritualist Camp-meeting," the "religious" character of which being disputed, was left to the jury.

its provisions and of the conditions which it is required to meet.

The first question the true legislator must ask himself is, Does expediency demand any legislation at all on this subject? And the second is, Have I before me the most expedient legislation under the circumstances? As to many things, the first question may at once be answered affirmatively. It is admitted by all, that we must have statutes or "common law" for murder, robbery, etc. But it is not admitted by all, that we must have a Sunday law, and it is admitted by comparatively few that we must have a Brownist Sunday law. So that, when Brownism clouds the mind of a legislator with the prejudice that such a necessity exists for its Sunday law as exists for a law against murder or robbery, it prevents him from that examination of this question on its merits which is absolutely necessary to the proper discharge of his duty as a legislator.

A precisely similar effect results from this prejudice about the connection of a Brownist Sunday law with the common weal, on the Bench. It inclines our judges to associate the general welfare so intimately with a Brownist Sunday law, that they are impressed with the idea that they must sustain the law at any price, and prevents them from giving it that impartial consideration on its merits which their official oath requires them to give. There is no logical connection between the proposition that a law is a good thing to have, and the proposition that a legislature under a written constitution may pass the law. But it is true that a judge is biased in advance when he imagines that a statute before him is in some special way promotive of the general welfare. And the influence of Brownism goes farther than this; it does not only foster the impression that the Brownist Sunday law is a good thing to have, it tends to foster the impression that the law is a thing which it is absolutely necessary for us to have. And to consider its constitutionality under the

influence of such an impression as this, is to approach the subject in a non-judicial frame of mind.

But here let us refer again to what has already been said in extenuation of intellectual dishonesty. Our judges are entitled, like the persecutors of old, and those would-be persecutors, the Brownist clergy of to-day, to the benefit of that religio-psychologic principle which forbids one soul to adjudge the responsibility of another for its belief, or its way of arriving thereat; which teaches that sincerity may well exist where it seems to be totally lacking; which warns us that the most able and the most honest of men may be satisfied in their own minds that a train of reasoning has driven them to a certain conclusion, when, in reality, the conclusion was predetermined, and the reasoning invented or distorted to fit it.

With this truly Christian and right allowance for human infirmity, we shall forefend the imputation of disrespect for the Bench, while we examine and weigh without fear or favor, and on the merits of the case alone, the various grounds upon which the Established Church of Brownism, as embodied in the idle and cheerless Sunday, has been sustained in American law.

And this mercilessness in dealing with the positions taken, while neither feeling nor expressing disrespect for those who have taken them, is absolutely necessary to any profitable discussion of the subject. Because, when a judge approaches a question of law in a non-judicial frame of mind, and when he therefore bases his conclusions upon reasons which did not lead him thereto, and could not lead any judicial reasoner thereto, he is guilty, consciously or unconsciously, of intellectual dishonesty. And the evil results of intellectual dishonesty to mankind are the same, whether he who practices it does so "with malice aforethought and evil intent," or otherwise. The clergyman who practices it, though his own conscience may acquit him of willfully doing so, is,

when detected, under a suspicion fatal to his usefulness; and it is obvious that the state of a judge's conscience has nothing whatever to do with the effect on the material interests of the community, of his considering questions brought before him in a non-judicial frame of mind.

Is it a fact that American judges have approached the consideration of Sunday laws under the prejudice that Sunday idleness is divinely commanded, and that they have wrongfully permitted that prejudice to influence their view of these laws? Let us see.

In New York, we are told by Judge Kent, "the statute has for over a century recognized the sanctity of the day, and punished its (the sanctity's) violators."¹ In Georgia the code denominates Sunday "the Lord's day," and as *the Lord's day all courts and magistrates are to consider it*,² and the Sunday law of that State "*but re-enacts the law of the Almighty*."³ In Arkansas the day is "*set apart by divine appointment as well as by the law of the land*;"⁴ in Pennsylvania the phrase is "divine command and human legislation;"⁵ and in Iowa we are told that the idle and cheerless Sunday is "established by laws both human and divine."⁶

Now, the language of these cases is not rare nor exceptional. They are types of a very large number, and the spirit which pervades them and which prompts the use of such language, pervades many others. When we remember that this language is used in cases where the sole question involved was the constitutionality of a human statute, passed by a human legislature, whose being was created and whose powers were limited by a human constitution, we appreciate the fact that it unerringly indicates a non-judicial frame of mind.

¹ Ruggle's Case, 8 Johns, 290

² Salter vs. Smith, 55 Ga., 244.

³ Johanson's Case, 22 Pa., 102.

⁴ Bass vs. Irwin, 49 Ga., 436;

⁵ Stocklen's Case, 18 Ark., 186.

⁶ Davis vs. Fish, 1 Green, 406.

CHAPTER VI.

The Objection to Sunday Laws, that They Are Immoral in Spirit and Tendency.

IF the only result of the Sunday law was to accomplish its amiable purpose of rendering the non-Brownist wretch uncomfortable, its operation might not be quite as objectionable as it is. The discomfort of the non-Brownist may not be very serious in many cases ; and if we set off against this, the enormous enhancement of the Brownist's felicity, which results from the knowledge that one who does not agree with himself is uncomfortable in consequence of his contumacy, it may be plausibly maintained that the aggregate happiness of the community is increased rather than diminished by the Brownist Sunday law.

But, though the non-Brownist's discomfort be small, and the comfort of the Brownist exceeding great, yet the principle, *de minimis non curat lex*, cannot be invoked to justify the Sunday law. And though the net result of such a law be increased happiness, this cannot save it. For, as already shown, the mere fact that a law may be, on the whole, a good thing to have, is no reason whatever for the assumption that an American legislature may enact it. And the fact is that the main objection to a Sunday law is not its effect on the comfort or happiness of the people at all, but its effect on their manners. And though legislation of any character be promotive to the utmost of the general happiness, yet, if it be at the same time conducive to general demoralization (and pleasure may be purchased at the cost of character by

nations as well as individuals), then it is unwise legislation, and blots the statute book.

Can this be shown of Sunday Laws—that they do produce and must from their very nature produce demoralization in the community? It is believed to be easily demonstrable that these laws are an unmitigated evil in many respects, and that the demoralization they work is so great that the Brownist's delight in their existence cannot be legitimately considered as an offset. This demoralization, as will presently appear, affects the Brownist as well as others, and may be considered as resulting—

1. From the spirit which inspires their enactment.
2. From their non-enforceability.
3. From the immorality which their provisions foster and inculcate.

The harm done under the first head is done largely to those for whose gratification Sunday laws are passed. These laws, by their very presence on the statute book, demoralize and *de-Americanize* our Brownists. No matter how strenuously they deny it, they are at once demoralized into hypocrites; they instinctively recognize in a Sunday law a union of their Church and the State. And this un-American thing, kept ever before their eyes, makes them evermore un-American. The spirit of ecclesiasticism is essentially aggressive. It is the old, old story of the camel by whose earnest solicitation the Arab was persuaded to allow the insertion of the brute's head within the tent, and who shortly afterward insinuated his entire body beneath the canopy, and thrust the Arab out altogether.

The Sunday law is the camel's head intruding on the State's domain. It constitutes *pro tanto*, a union of the Brownist Church with the State. And its existence is the chief cause and encourager of that moral disease which ever and anon breaks out among us, and is now known, from the name of its most conspicuous recent victim, as

"Parkhurstism." Parkhurstism is to a large extent one of the penalties we pay for the cheapness and enterprise of modern journalism. For this has developed in every quarter, —and nowhere more strikingly than in the pulpit, — a sickly hankering after newspaper notoriety, which may be justly described as the characteristic weakness of our age. But the particular manifestation of this influence known as Parkhurstism would probably be lacking in the pulpit, and would certainly rage with far less frequency and violence than it does, but for the Sunday laws. Parkhurstism consists in setting up for the Master, in his despite, a kingdom of this world. It consists in the assumption that because a man is a preacher, therefore he knows more about civil administration than those whose lives are given to the study and practice of civil administration. It consists in the application to the clergy and Christian Church of those political and militant functions which were assigned to the prophets in the later Hebrew economy of the Old Testament. It consists, in one word, of the union of Church and State. And it finds no stronger temptation, no greater justification for its most arrogant assumptions, its most absurd vagaries than the presence, in American statute books, of these Brownist Sunday laws, which admit the authority of ecclesiasticism in civil affairs, and embody the union of the Brownist Church with the State.

And on other people than Brownists, the spirit which inspires the enactment of Sunday laws works its demoralizing effect, in that it prepares their necks for the yoke of the Established Church which the Brownists are forever endeavoring to fasten upon them. A little of the yoke is in place already in the Brownist Sunday law; another joint is fastened in the exemption of church property from taxation; smaller bits are attached here and there in the shape of provisions against blasphemy, qualifications of religious belief for witnesses, officeholders, etc. And the hope ever lives

that by being made accustomed to the galling of these detached portions, the patient public may one day be persuaded to have them all linked together in a solid yoke, and submit to be driven and guided by the priests of the Brownist Church by law established. And there is no doubt that there is some ground for this hope, and that the Sunday laws do tend to make the masses of the people more inclined to play the silly part of the Arab in the story, just as they constantly stimulate the spirit of the camel in our Brownists.

But if the political sense of the non-Brownist portion of our people is dulled, and their watchfulness over their liberties weakened, by Sunday laws, it is none the less true that their moral character is seriously impaired by these laws. Enough has been said of the blasphemous materialistic notion which Sunday laws promulgate,— that the Creator “needed rest like a man.” From a secular standpoint the notion they promulgate, that physical idleness is a good thing in itself, and that the State is conferring a boon upon the citizen by allowing him an opportunity to indulge therein, is no less pernicious and objectionable. No more immoral lesson could be preached by any legislation than this.

The thoughtful student of our history will note a remarkable difference between the *Zeitgeist* of our time and that of fifty years ago regarding this question of labor and idleness. Horace Mann once voiced what was considered the distinctive American doctrines upon the subject. In Europe labor had for centuries been considered degrading. To be “respectable,” one must be idle. A very few years since, a great English novelist considered that he wrote nothing incredible when he described how “a country gentleman” turned his brother’s picture to the wall, and wrote on the back “gone into trade.” Now many English noblemen have “gone into trade.” But for our having slipped away from the teachings of Horace Mann and his school, we might hail this and other like phenomena as triumphs of Americanism, the victory of

the republic's ideals over the prejudices and superstitions inherited from the feudal ages. But, alas ! Horace Mann and his school are no longer the representatives of Americanism. With them, the dignity, the honor, the physical, moral and mental advantages of labor were the burden of an incessant song. "The divine love," it was proclaimed, "tempered justice with mercy, in that it made industry pleasant and profitable to all right minded men, when making it necessary for the preservation of the race." With them, not only must every man work to be respectable, but other things — capacity, kind of work, etc., — being equal, *the most respectable man was the man who worked the hardest.*

Does any such standard of conduct now obtain in the Republic? We have labor organizations in abundance. Knowing the natural tendency of the human heart to shirk, and recognizing the influence of public opinion on individual conduct, we can see from Mann's standpoint a very desirable function for which such organizations might well be formed. Their object would be, say, primarily, a sort of natural insurance, with "sick benefits," etc. And then they would fix on the most hours of work, and the utmost amount of the best work per hour which a high average of the zealous and industrious among them could healthfully endure, and debar from all advantages of their union any who fell below it. Being labor organizations, their main purpose, of course, would be to develop the capacity for labor, and increase the quantity as well as the quality of the output of labor to the utmost. Consequently, they would offer prizes in medals and money to those who should show extraordinary ability in the way of working many hours at a stretch, turning out a large quantity of the best work per hour, etc. And as excellence in labor or anything else can only come out of individuality left to the most perfect freedom, the unions would strenuously set themselves against compelling anybody to do or abstain from anything, save at his own sweet will, unless he interfered with a like liberty in others.

But our labor organizations are not constructed on the ideals of Horace Mann. Their standard is the mass and not the individual, hence, necessarily, they tend to mediocrity, instead of excellence. But their standard is not even the average of the mass, it is the lowest plane, it is the standard of the most lazy, shiftless, incompetent among them. Not the most or the best, but the least and the worst possible work is their aim. Instead of regarding work as something so essential to the formation and the preservation of character that a wise man will seek it or even *make it* for himself though he has no financial need of it, their doctrine is that work is a pestilent evil, to be avoided to the very utmost. They have cast down the image of Industry from its American pedestal, and set up the European god of Leisure in its place. They teach that laziness is a virtue and energy a vice, and that idleness and not labor is the true end of man.

Doubtless this "topsyturification" of the true American idea is one of the many evils which, along with many advantages, have resulted from the large foreign immigration of recent years. Millions of the most active and aggressive of our citizens have come from countries where the ignominy and shame of labor have been an axiom of thought for many generations. They and theirs have from the very dawn of civilization been looked down upon by idlers because they worked; and have acquiesced, as if it were in the nature of things that laborers should be scorned by loafers. They have been accustomed to find themselves classed with beasts of burden, because these work, and to tacitly acknowledge the justice of the association. No wonder, then, that their first great idea in coming to the United States is, as soon and as much as possible, to shake off this badge of inferiority and degradation; that when you talk to them of freedom, you suggest to their minds freedom from work and nothing more nor less. How is it to be expected that they should understand the American idea that the loafer is the blackguard, and the steady, industrious, faithful laborer is the gentleman?

Now, experience shows that the European, or feudal, conception of work as a badge of inferiority is not inconsistent with a civilization based on other things such as hereditary rank, militarism, state-religion, and the like. All these absurdities and fallacies existing together counterbalance each other; and not only is society held together, but some very high types of character are developed, however great the sacrifice of other lives for theirs. But sound philosophy teaches us that some ideas which experience shows may safely prevail under European social conditions, will prove fatal to the free government under which we live. And among those ideas sure to poison the life blood of the Republic is the idea that labor is ungentlemanly. The European workingman who settles here does not appreciate it, but in his intense desire to work as seldom and as little as possible, he is attaching to labor this foreign stigma, and destroying the chief distinction between the *Zeitgeist* of America and Europe, which renders our country so preferable for all such as he. By frankly showing that in his own eyes the work he does is a detestable thing, to be avoided to the utmost, and only done under the pressure of absolute necessity, he is creating a popular idea of himself not as a free and independent citizen, a "sovereign" ruler with other sovereigns over a great country whose governors are his commissioned representatives, but as a miserable serf, driven to his work like a beast, down-trodden and degraded.

It is amazing that it never occurs to our foreign labor agitators that their continual persistence in speaking of workmen as slaves and "vassals," tends gradually to undermine the self-respect of the men, and make them more or less regard themselves in that depreciatory light, and *feel and act accordingly*; while such language, too often supported by conduct so childish and reckless as to seem to justify the epithets by which it is incited, must also inevitably conduce to the establishment in the community at large of just that

contemptuous idea of wage-workers which the words express, and which is the European and feudal and not the proper American and republican idea about such people. Well, then, these foreigners, with their European notion that labor is degrading and idleness is honorable, are by nothing they find here at once so encouraged and helped as they are by the presence of Sunday laws on our statute books. For this foreign idea of theirs is part of the very essence of Sunday laws, and in them they find American States preaching already to their citizens the un-American doctrine that idleness is a good thing in itself, to be desired and sought after for its own sake, and that legislation for the promotion of idleness, is a boon from the government to the people.

Thus the evil seed of general Sunday laws not only brings forth the fruit after its kind of special Sunday laws under the influence of labor agitation, but these laws by their very presence on the statute books afford a constant suggestion and incentive to those who would have the State abridge the citizens' liberty of labor and contract by the enactment of what is strangely enough, called "labor legislation," such as "eight-hour laws," and the like ; all of which, like the Sunday laws, are reflections on labor and its dignity, and are passed in opposition to it, and for the promotion of its direct antithesis,—idleness.

Two instances may be mentioned of special Sunday laws which would never have been dreamed of but for the suggestion of the general law. In 1892 there was an attempt to forbid by law the delivery of ice from wagons on Sunday within the city of Washington, as was done long before in Baltimore. The hardship of such a law, of course, fell entirely upon the poor people, who, having no refrigerators, or very small ones, could not store enough ice on Saturday to last them over until Monday. To the wealthy no particular inconvenience was occasioned. Now the first suggestion of such a law as this was born of a dishonest impulse, or that

desire to get something for nothing which was the inspiring impulse of Dick Turpin and Jesse James. The men who delivered ice from wagons wanted to draw seven days' pay for six days' work, and hence they moved for a law making it penal for them to deliver ice on Sunday, but laying no penalty on the employer who should pay them, upon the assumption that they broke that law, and give them as wages what they had done nothing to earn. Of course neither the sufferings of the poor, nor the immorality of the idea, neither the cruelty nor the rascality of the thing, deterred the Brownist clerics from giving it their enthusiastic support in both cities.

Again, there is the case of barber-shops. Notwithstanding that one who shaves another on Sunday would seem to offend against most general Sunday laws, there is every now and then a clamor—mostly, it is believed, successful—for the passage of a special act for certain localities against Sunday barbering. Now this clamor originates, if not in dishonesty, at least in laziness. That it should ever be successful is as serious a reflection on the character and manliness of American legislatures, as anything in our political history. And nothing could illustrate better than its success, the truth of our proposition that it is not possible for the average American legislator to approach the consideration of any Sunday law, without falling at once under the influence of intellectual dishonesty and into a non-legislative frame of mind.

Here come a number of barbers, Messrs. A, B, and C, and ask the legislature to compel another certain number of barbers to close their places of business during certain hours every week. And why?—Simply because A, B, and C do not choose to keep their shop open during those hours! That is to say, X, Y, and Z are to be compelled to be idle against their will in order that their spirit of industry may not reap its just and wholesome reward in competition with

the spirit of idleness which governs the conduct of A, B, and C! Every Sunday law is, indeed, legislation for the promotion of idleness. But the present case is so glaring that it points the moral with peculiar force. We can grasp in all its monstrous infamy and absurdity the true nature of such laws by substituting grocers, for instance, in the place of barbers, and Monday in the place of Sunday. Then let us ask, What legislator would dare to put a premium on laziness by voting for a bill to compel X, Y, and Z to close their grocery stores on Monday, because A, B, and C did not desire to keep their grocery stores open on that day — what A, B, and C would dare to clamor for such a law?

These laws are also demoralizing by reason of their very presence in the statute book, because they are not reasonably enforceable, or, in fact, enforceable at all; and the value and effectiveness of all law is weakened by the company of laws of this kind. And this quality of non-enforceability Sunday laws share with all other laws directed against vice and immorality, as will presently appear. Clerics, with their minds always fixed on an expected coalescence of Church and State, frequently clamor for a law which would plainly be unenforceable, in the same sense that many of the laws which attest the survival of a partial union of the two among us, are unenforceable. And when they are asked, What is the use of making a law which will not be indorsed by public opinion to such an extent as to be reasonably enforceable? they reply in some such language as that recently used by a distinguished Southern bishop, to the effect that there ought to be laws *expressing the moral sense of the people*.

“Experience teaches,” said, in effect, the dignitary alluded to, “that the moral sense of a people never rises above their legislation.” Now, if there is anything in this world which all experience and history do teach, it is that there is no connection whatever between the legislation and the morality of a people. One illustration here is as good as a

dozen. Never were "sumptuary laws" more severe and exacting than in the time of Rome's greatest extravagance and dissoluteness. This was under a despotism. Under a free government, not only is the standard of morality always higher than the standard of the law, but it is found in practice that it is inexpedient to *attempt* to raise the latter to a level with the former, while the failure of any such attempt is a foregone conclusion.

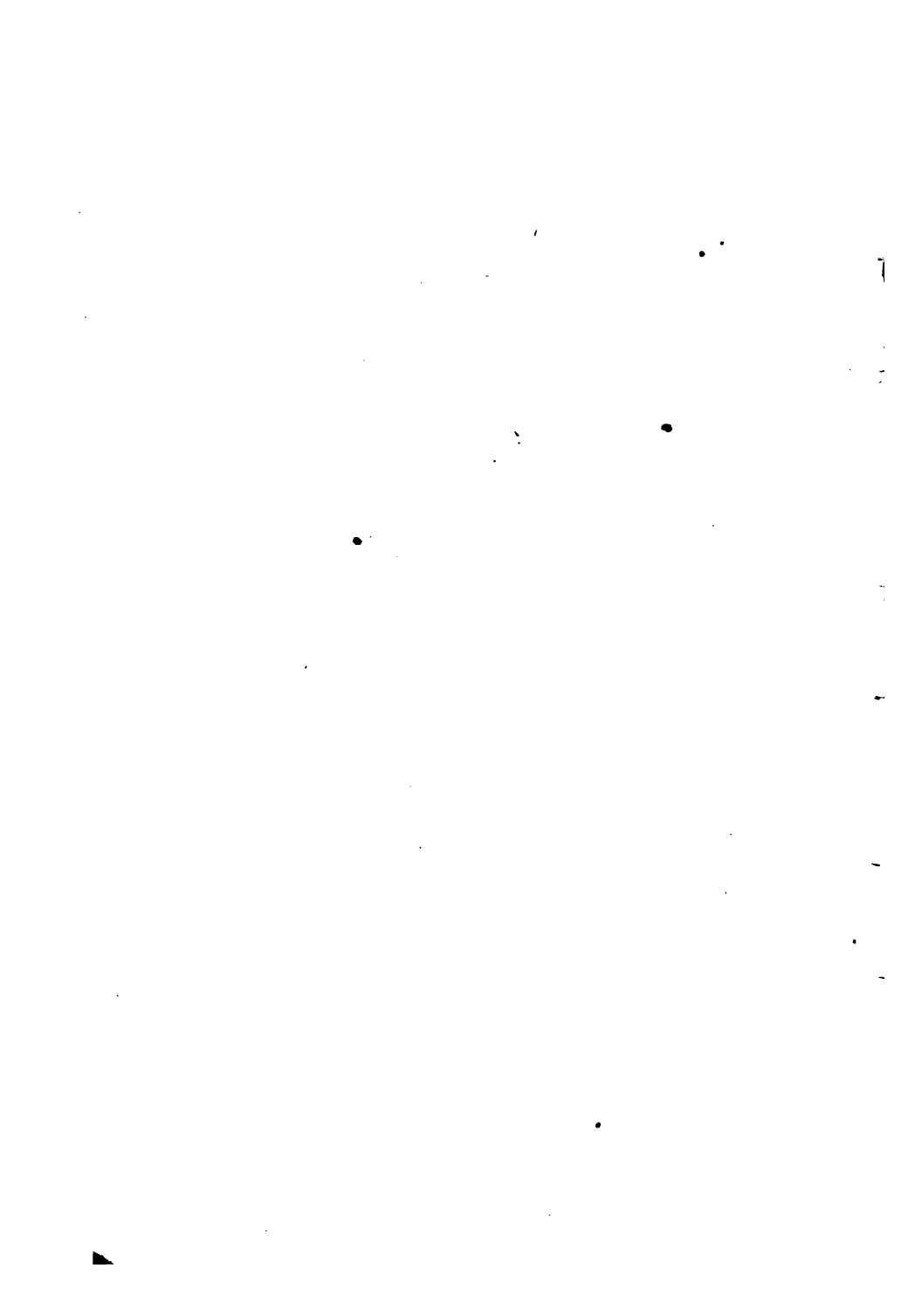
Thus the moral obligation to do a thing exists without any reference whatever to the question of whether one has promised to do it. And the moral obligation to keep one's promise is not in the least affected by the question of whether or not there was a "consideration" for the promise. Nor does the form in which the promise may have been embodied, in the slightest degree affect its moral obligation. The law does, for economic reasons solely, recognize certain obligations independent of promises and connected with the general or special status of the citizen — such as the obligation of every citizen to keep order, and the obligation of a parent to support a child. But it pays no respect whatever to the moral element of any obligation apart from its civil or pecuniary aspect. Thus, the citizen ought to be as decent in solitude as in crowds, under the moral law. But the civil law does not follow him into his closet. The parent owes his child kindness; the law will force him to feed and clothe it. So the law requires a consideration for a promise before it will take cognizance of the latter; and certain promises it requires shall be evidenced in a certain way in order to be enforceable in its courts.

Again, I owe a man money; if time enters into the question at all, surely the longer I owe it, the greater my moral obligation to pay. At least it is grossly immoral to plead my own delinquency for years as a final reason for repudiating the debt altogether. But the law takes no such view of the matter. The moral aspect of the situation does not give it

any concern. It looks at the civil aspect alone. It adopts, as a maxim of *civil expediency*, the principle "*interest rei publicae ut finis sit litium*,"—"It is the interest of the State that there should be a limit of time to litigation," and therefore it says to my creditor that if he has not within a certain number of years compelled me to pay him my debt, then he shall not compel me to pay it at all. Nor is it any answer for him to plead that it was impossible for him to collect his debt within the time thus arbitrarily fixed. And the law further shows its perfect indifference to moral distinctions in this regard, by fixing different periods of limitations for debts attested in different ways, a note must be sued on in so many years, a mortgage debt collected within such a period, a judgment realized upon in another, and so on. Thus, debts have a different "dignity" in the eyes of the law. But in the eyes of morality they are one and all the same.

We see, then, that at the very foundation of the law lies this distinction between a civil and a moral obligation; and that it is not necessarily advisable to incorporate into law a point of morals, even where the point is almost universally agreed upon, as in the matter of the life-long obligation to pay a pecuniary debt. And we must also bear in mind that there is a vast domain of morality wherein there is by no means this approach to universality of sentiment, but on the contrary a variety of opinions at least as numerous and unlike as the varieties of eyes and hair. And into this domain the law will never penetrate, because it has absolutely no means whatever of deciding between these conflicting opinions, and because of its grand saving principle that it will attempt no impossibilities, and will go nowhere without a guide.

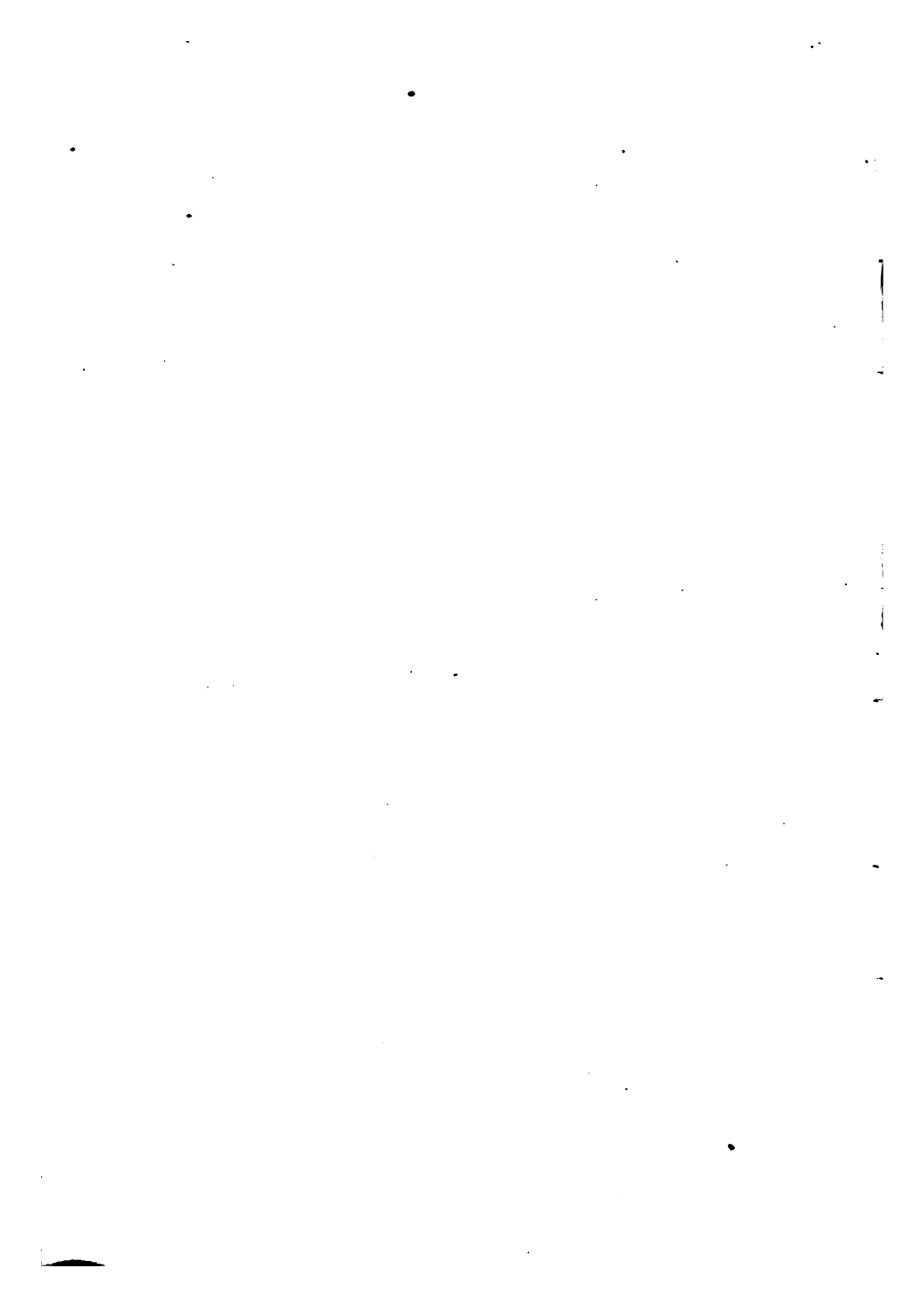
So much, then, for the objection to Sunday laws as immoral, alike in spirit and tendency, injuriously affecting those who desire them and those for whose constraint they are desired.



PART III.

THE CONSTITUTIONAL ASPECT OF THE QUESTION.

OBJECTIONS TO SUNDAY LAWS ON ACCOUNT OF THEIR NATURE AS EMBODI-
MENTS OF THE UNION OF CHURCH AND STATE — JUDICIAL
EVASIONS OF THIS HISTORIC FACT EXAMINED.



CHAPTER I.

Objections to the Religious Grounds on which Sunday Laws have been Sustained.

SOME may think that we might well have stopped with the demonstration from history that Sunday laws represent and embody a union of Church and State, because as soon as this demonstration is accepted, the inconsistency of such a union, with American ideas of government, must cause them to be swept from the statute book of every State, without further argument. And when to this demonstration is added proof positive that Sunday laws are false in their essential basis, and altogether pernicious in their results, the case might seem strong enough to leave to that intelligent jury, the American people. But the fact is, that this historic truth that Sunday laws represent and embody a union of Church and State has, under one pretense or another, been deliberately ignored by our judges for more than a hundred years. And it is necessary that these pretenses be examined and exposed, lest any one should imagine that they have been purposely avoided here, or that judicial ingenuity has ever discovered a single sound argument to offset the objections to Sunday laws which have been set forth in the preceding pages.

But, again, the question might be asked, If the courts have uniformly upheld these laws, is not that, practically, the end of the matter? The answer is, No. This little book has a two-fold purpose, one, indeed, in substance. Its one purpose is to discredit Sunday laws, and to bring

them into the utmost possible disfavor. Its two-fold purpose is to initiate and stimulate a public sentiment which will one day force their repeal; and at the same time to show the fallacy of all the reasoning by which their right to exist in American statute books has been vindicated. And this last purpose is not quite so vain as to some it might appear.

For, according to a well-established principle, it is not the cases, but the reasoning of the cases that makes the law. And even an overwhelming weight of authority may be weakened by a demonstration that the conclusions reached are not justified in any case by the premises from which they are drawn. And if no other reasons can be found than those alleged, why these conclusions should be adopted, a clear-headed and right-minded judge may at any moment arise who will brush aside the casuistries of the rest, and rule according to honesty and right reason alone. It is, indeed, only by repeated "hammering" that "bench-made law" is beaten into new shapes, fitted to the ideas and needs of an advancing civilization.

The limits of this publication will not admit of an exhaustive examination of all the Sunday-law cases in the United States or early English reports. An effort to group them properly and with reasonable completeness has been made in a little book called "Sunday; Legal Aspects of the First Day of the Week," by the present writer (Linn & Co., Jersey City). But it is believed that in the following pages, the reader may safely calculate on finding, fairly stated, every argument ever judicially adduced to sustain these laws. And it is further believed with absolute confidence that it lies not within the power of the human intellect to devise one single argument to sustain them which is not here both fairly stated and fully examined.

Future cases may follow more or less servilely the "precedents," as Holt did the "precedents," for punishing witches. They may repeat, poll-parrot wise, what has been

said before. But it seems impossible that anything new should be found in them, so thoroughly has the ground been covered, so microscopically careful and exhaustive has been the search for casuistries wherewith to defend an untenable position in the past. The encouraging point is that, while the exposure of these old casuistries has been so complete that judges of the deepest-dyed type of Brownism have learned to fight shy of them, yet for many a day no new casuistries have been devised to take their place. The field has been covered long ago, and an uneasy consciousness that the covering is not sound is making itself felt.

Hence, we may confidently anticipate that what has some time since begun will continue, or, in other words: (1) that the judges, in sustaining Sunday laws, will more and more confine themselves to referring to the "authorities," and more and more forbear to consider the question on its merits; and (2) that they will be understood to do this because the defenders of Sunday laws have been driven from one citadel to another, until, as "the thoughts of men are widened with the progress of the suns," it has become plainly evident to all judges of elementary common sense that Sunday laws have not one single merit to rely on in America.

The divine command supposed to be embodied in the Brownist Sunday law, is that Sunday shall be "kept holy;" and this law is designed to preserve the *sanctity* of the day in New York;¹ and the Georgia statute is based on the fact that Sunday is a "holy day;"² and that of Iowa sets it apart as "sacred;"³ and the same position is confidently taken in many other cases. There is some little confusion of ideas as to the manner in which Sunday acquired this character of sanctity. In New York it seems to have been "consecrated" by statute,⁴ and in Georgia, it

¹ Ruggle's Case, 8 John's., 290.

³ Davis vs. Fish, 1 Green, 406.

² Weldon's Case, 62 Ga., 449.

⁴ Ruggles Case, 8 John's., 290.

is the "Lord's Day," as a mere matter of law.¹ But generally the sanctity is ascribed to divine law, which is merely "recognized" by the State statute.²

Now the question of sanctity in a day, or a place, or anything else, is manifestly altogether a question of religion; and an attempt to enforce by law the sanctity ascribed by any religion to a particular day, unless the sanctity ascribed by all religions to all days be recognized in the same way, is so obviously a preference of one religion over another that it has been repeatedly accepted as such, and as such sustained by the courts. It will not be denied that to defend an acknowledged preference, in the very teeth of a prohibition of any preference, is a task worthy the highest efforts of judicial casuistry. And worthily has it been discharged. Blackstone, of course, who is nothing if not logical, puts breaches of the Sunday laws among his "offenses against God and religion;"³ considering these laws as passed for the enforcement of a religious dogma, in which — their true character — they are well enough in a country where the church is by law established. But, calmly ignoring the fact that according to the theory of our American constitutions there is not, and cannot be any church here by law established, many American judges adopt the English view and still uphold American Sunday laws. We are boldly told that the purpose of the compulsory idleness required by these laws is "to turn men

¹ The argument of this chapter proceeds throughout on the assumption that the idle and cheerless Sunday is a dogma upon which Christians are unanimously agreed. At every step of this discussion, as the reader will observe, it is necessary to concede *some* fallacy to the advocates of Brownist Sunday laws, in order, so to speak, to get them into court; we must let them set up the men of straw with which they have so long deluded the people, so that the puppets may be satisfactorily bowled down. It has been shown elsewhere that the idle and cheerless Sunday, by civil law established, is not a Christian dogma at all, and was never introduced into the world of thought till Christianity was more than sixteen hundred years old, when it was evolved out of the inner consciousness of the Brownist sect of the Puritan sect of English Protestants; and, moreover, that the idle and cheerless Sunday by civil law established, is by no means accepted as a dogma by all, or even a majority of Christians of to-day. *Weldon's Case*, 62 Ga., 449.

² See *Johnston's Case*, 22 Pa., 102; *Stockden's Case*, 18 Ark., 186; *Davis vs. Fish*, 11 Green, 406.

³ Vol. ii, p. 264.

to the duties of religion," and "enforce the observance of religious duties;"¹ "to promote and establish religion among us;"² and "to induce the observance of the duties of religion in society;"³ and that the day is "wisely recognized by law as a day of rest to be devoted to religious contemplation and observance."⁴ And plenty more citations to the same astounding effect may be found in "Sunday," etc., the work already referred to.

The religious character of Sunday laws being understood, it remains to demonstrate the claims of the religion recognized by them, to be considered as an exception to those provisions against preferences to which all other religions are subjected. The absence of any express exception in the provisions themselves, strongly militates against the idea that it was intended by the Constitution-makers that any exception should exist. And it is a bold thing, indeed, for a court to engraft an exception of its own on a constitutional provision which is not only as general in its terms as it could well be made, but which is utterly valueless if weakened by any exception whatever, and is, therefore, by such a judicial construction, practically nullified altogether. Yet it is true that an exception to a general rule in one part of the Constitution may be created by the language of another part, where such a construction is necessary in order that both parts may stand.

Now the religion which is supposed to be entitled to a preference in the recognition of its sacred day and to receive that honor in the shape of a Sunday law, is Christianity. And its right to be considered as an implied exception to the provisions against preferences between religions, is based on the fact that it is a part of our constitutional law, having been a part of the common law, to which nearly all the State constitutions declare that the people are entitled.⁵ As already

¹ *George vs. George*, 47 N. H., 27.

² *Duprey's Case*, Bright, 44.

³ *Kounty vs. Price*, 40 Miss., 341.

⁴ *Moore vs. Hagan*, 2 Duv., Ken., 437.

⁵ See the reasoning set forth in quotations in "Sunday," etc.

observed, these declarations are usually accompanied by some such phrase as "so far as applicable," etc. ; but, even without any qualifying phrase, they do not justify the assumptions based upon them.

Let us concede that Christianity is part of the common law referred to in our Constitutions. Even then, it would not follow that Christianity is part of our law. It is an established rule of interpretation that where one construction will allow two clauses of a constitution or statute to stand together, and another will require the sacrifice of one or the other clause, the first construction is always to be preferred. Now, if we infer that the adoption of the common law carries with it the adoption of Christianity, as just observed we destroy completely the provision against preferences between religions. All that the majority of any legislature has to do is to determine that the teachings of one particular sect constitute Christianity, and its right to a preference, to be made a church by law established, and to insult every other aggregation of believers with its tolerance, or persecute them at its own sweet will, is at once demonstrated.

On the other hand, to maintain intact the provisions against preferences between religions does not destroy the adoption of the common law, but merely fixes an exception thereto. The two clauses, standing together, amount to simply this: The common law of England is adopted here, save and except so much of it as is connected with the English union of the Church and State, and *so much* is in terms repudiated. There are various provisions in every State constitution which qualify the adoption of the common law, besides the prohibition of religious preferences, such as the prohibitions of hereditary titles, bills of attainder, etc., etc. No court would think of nullifying these safe-guards by appealing to the most general terms of the adopting clause. Yet the guaranty of religious equality is more valu-

able than all the other repudiations of common law atrocities put together.

The fact is that the claim that Christianity is a part of American law, proves too much. We have seen that it enables the legislature to set up at any time an established church of its own. It is hard to see why this right does not involve a duty,—why our legislators are not bound by their oaths to settle just what is and what is not Christianity, and to incorporate in statutes whatever else they may conclude to be its dogmas besides the idle and cheerless Sunday. In England, no court can sit in judgment on the constitutionality of an act of Parliament. But the courts in this country have always admitted that the constitutionality of Sunday laws is properly within their purview. So, presumably, it will be when other religious dogmas besides the idle and cheerless Sunday have become a part of the statute law. And a fine, ennobling, an essentially American spectacle we shall have, when our judges undertake to distinguish heresy from orthodoxy, and such questions as the difference between "*homoousion*" and "*homoiousion*" come to be argued at our trial tables. Absurd as this suggestion sounds, it is no more absurd than the attempt to establish the idle and cheerless Sunday as an American institution, on the ground that it is a part of the Christian religion. The right and the duty to establish and maintain a part, involves the right and duty to establish and maintain the whole, and neither a part nor the whole can be established or maintained without determining in some way the claims of the part or of the whole to be considered orthodox Christianity.

And this brings us to the fatal difficulty about the view under consideration. If, at any time, the position of the idle and cheerless Sunday as a Christian institution is assailed, then its right to exist as a State institution can only be settled by an express judicial settlement of the question, What is Chris-

tianity? And, as before observed, our courts have no means whatever of settling this question. They are furnished with no standard by which to discriminate between orthodoxy and heterodoxy; they cannot decide what are and what are not "canonical" writings; they can determine neither the original reading, the correct translation, the significance, nor the application of any passage in a religious book. In short, they are not ecclesiastical courts, and cannot adjudicate the rival claims of churches to be exclusive or superior guardians of the Christian truth.

If any demonstration of the verity of this objection to the civil maintenance of Christian institutions, as such, were needed, it would be found in this very case of Sunday laws. A large and increasing class of Christians hold that Saturday and not Sunday is "the Christian Sabbath." What is an American legislature, or an American court, that it dare undertake to decide between them and others such a point as this? If the answer comes, "But the majority decides," then this is answered in turn by saying that the majority, or what passes for the majority, can decide no such question without an act of revolution. The very object of constitutional guarantees is to limit the power of the majority, to enumerate points which it shall not be permitted to decide,—and among the points mentioned, in one phrase or another, in every American constitution, is this very point of deciding between religions, and thereby extending "preference" to one or the other.

The matter is here dealt with as though the only question was one of preference between one community of Christians and another. But in truth the preference would be the same though all Christians were agreed as to the day and the obligation and manner of its observance. For there are other forms of religious belief among us besides the Christian; and it needs no argument to show that to recognize the *Christian Sabbath* and refuse the same recognition to the

Hebrew Sabbath, for example, is to make a preference of very decided character between two very different forms of religious belief.

Nor is the preference merely abstract or theoretical. According to the idea on which it is based, the idle and cheerless Sunday is forced upon a portion of the people because it is necessary that they should be idle and cheerless in order that others may preach and pray in a fitting manner and with due satisfaction to themselves. If this is so, then the same necessity exists on Saturday, and our Hebrew or seventh-day Christian citizens are very far from a position of equality before the law, and very decidedly "preferred against;" and indeed, are indirectly persecuted by the State, when it allows them to be so disturbed by others pursuing their regular occupations and pleasures that a proper observance of their sacred day is impossible.

This plain proposition has been conceded, and a desperate attempt has been made to "reason it down." The attempt has never been made more heroically, or failed more conspicuously than in the case now to be cited. The New York Constitution provides for "the free exercise of religious profession and worship without discrimination or preference," with the usual saving of "practices inconsistent with the peace and safety of the State." Considering the meaning of this language, a learned judge observes: "It would be strange that a people, Christian in doctrine and worship, and who regarded religion as the basis of their civil liberty and the foundation of their rights, should, in their zeal to secure to all, the freedom of conscience which they valued so highly, solemnly repudiate and put beyond the pale of the law the religion which was dear to them as life, and dethrone the God whom they openly and avowedly professed to believe had been their protector and guide as a people. Unless they were hypocrites, which will hardly be charged, they would not have dared, even if their consciences would have

suffered them, to do so. Religious tolerance is entirely consistent with a recognized religion. Different denominations of Christians are recognized, but this does not detract from the force of the recognition of God as the only proper object of religious worship, and the Christian religion as the religion of the people, which it was not intended to destroy but to maintain."

Let us pass by the unconscious blasphemy of this talk about men "dethroning" Deity; it is no worse than is often heard from the lips of the pious and well-meaning. It is not to be supposed that a Christian people will ever "repudiate" its religion. To put it "beyond the pale of the law," so far from being a step toward its repudiation, is distinctly a manifestation of increased respect and veneration for it. And it is no extravagant compliment we pay to the men of the last age when we regard this constitutional provision as largely inspired by their consciousness of the essential degradation of their religion involved in its connection with the civil law. At any rate, they thereby did one of two things,—they either placed their religion beyond the pale of the law, or they brought all other religions within that pale. For it is too plain for argument that to bring and keep within the pale of the law one "religious profession and worship" and to exclude all others therefrom, is to make a "discrimination," and to show a "preference" of the most decided character.

Did the people who adopted this provision really regard religion as the basis of their civil liberty and the foundation of their rights? This is not the American idea. It is the divine right of the king, in another form. By identifying the will of Deity with the existing order of things, whatever that may be, this view renders any attempt to change that order of things, peaceably or forcibly, a direct "flying in the face of Providence," as the saying is, a rebellion like that of Satan, as described by St. John. It makes blasphemy, as well as absurdity, out of those declarations contained in the

Constitution of New York and other States, of the right of the people to change the form of their government whenever it shall seem fit to them to do so. How dare a "Christian people" alter in any wise that system of liberties and rights of which their religion is the "basis"?

There is a sense, of course, in which religion, and the Christian religion of all others, is the "basis" of modern civilization; in which it has not only inspired the course of much legislation, and influenced our public life, but has made itself felt in the multitude of transactions between man and man, which neither are regulated by law, nor affect the community as a mass. Christianity permeates everywhere among us, and plays a part in everything we do, because it is that "pure and humble religion," as Gibbon calls it, which alone can at once suffice for the simple existence of Galilean fishermen, and answer all the complex conditions of modern society; because, in spite of all the evidence to the contrary, the Master's kingdom is set up in the hearts of men, and his Spirit is still working in the progress of the race. But to acknowledge this, his doctrine, as correctly defining its legitimate sphere of work, is, of course, to "repudiate" the use of the civil law either to define or enforce his religion.

The learned judge whom we have just quoted, observes that "religious tolerance is entirely consistent with a recognized religion." Undoubtedly, as between religions, it even assumes this. Tolerance implies forbearance. It is the act of a superior toward an inferior. It involves the power to be intolerant at pleasure. It denies a right, and asserts the granting of a favor. If the State tolerates, then she arrogates to herself a superiority to religion; if one particular religion tolerates the rest, it makes the same claim regarding them.

No man intelligently and morally capable of true religious feelings will accept a tolerance of his religion at the

hands of the State, or of any other religionists. Religious tolerance cannot be tolerated in America. The complete disseverance of State and Church, the absolute equality before the law, of all forms of religion and no religion, is the American ideal. In many cases, as in the citations above, we find the court ignoring the very language of the Constitution, and dealing with the question as though there were no provision on the subject, or the provision were couched in language altogether different from that actually employed.

"Religious tolerance is entirely consistent with a recognized religion," says the court. Suppose it is. Who asks for religious tolerance? What has religious tolerance to do with the question? Where is religious tolerance mentioned in the Constitution of the State of New York? The article and section supposed to be under the purview of the court contains no such phrase as "religious tolerance." It says: "The free exercise of religious profession and enjoyment without discrimination or preference shall be forever allowed to all mankind." Is there here the slightest suggestion of religious tolerance? The man who invokes such language as this against a Sunday law, no more asks for religious tolerance than he asks for civil tolerance when he attacks the constitutionality of a statute which would deprive him of life, liberty, or property "without due process of law." In both cases he asserts *a right*, against an attempted *usurpation*. He appeals, against legislative encroachment, to that fundamental law to which the legislature owes its existence, and by which it is as much bound as he is bound by any proper law it may pass. He has no more concern with the tolerance of the Assembly than with the tolerance of his next-door neighbor. Both the Assembly and his neighbors may be most anxious to impose their will upon him, to set him straight and keep him so, according to their notions, but neither extends him any tolerance when the strong arm of a constitutional provision is interposed between him and their

well-meant interference. He stands on a perfect level with either, accepts no favors, tolerates himself no encroachment.

The New York court did not dare to quote the language of the Constitution in the passage just cited, because the inconsistency of that language with the position which the court had set out to maintain would have been too glaring. "Religious tolerance is entirely consistent with a recognized religion," says the learned judge. "The recognition of one particular kind of religion by the State, to the exclusion of all others, accompanied by a tolerance of the rest, is entirely consistent with a constitutional prohibition of any discrimination or preference between religions," was too monstrous a doctrine for him to put into words. And yet, the second proposition, and not the first, was relevant and necessary to sustain his view of the law.

Having settled it that Sunday laws constitute a State preference of one kind of religion over others, and are *therefore* valid in States where such a preference is expressly forbidden, the courts come next to wrestle with the problem, Is the reluctant Sunday idler constrained to idleness for his own sake or for the sake of those who would idle on Sunday without constraint? Is it the purpose of the law to force him to perform a religious duty required by the preferred religion, or merely to prevent him from interfering with the performance of that duty by others? The language of most Sunday laws is so general as to strongly support the idea that the spiritual betterment of the reluctant idler is what the State is aiming at. And many American cases take this reasonable view, which is the established one in England.¹ Thus the New Hampshire Sunday law is said to be designed "to withdraw a man's own thoughts from secular concerns and turn them to the duties of religion;"² and it "reminds the individual that he has religious duties to fulfill, and

¹ See *Fenneller vs. Ridley*, 5 B. & C., 406.

² *Corsey vs. Bath*, 35 N. H., 530.

religious duties alone."¹ The Massachusetts statute of "our Puritan ancestors," which "continues in force without any substantial modification," "enforces by penal legislation" the "observance of the day," which consists in "devoting" it "to public and private worship and to religious meditation and repose."² In Pennsylvania, the Sunday law is sustained because "it is of the utmost moment that the people should be reminded of their religious duties at stated periods;"³ and in Kentucky the object of the law is that the day may be recognized "as a day of rest, to be devoted to religious contemplation and observance."⁴

Now it cannot be denied that any judge that takes this view of the purposes of a Sunday law, and imagines that he is justified in sustaining it on such grounds, is so completely blinded by the influence of Brownism that he is incapable of judicially considering the law at all. For a statute passed for the express purpose of turning a man's thoughts to the duties of religion on a certain day, of enforcing by penalty the devotion of that day to public and private worship, etc., must of necessity be designed to serve the purpose of a religious ordinance or decree, and to deal with matters that properly belong to such promulgations. And to pass a statute with any such purpose, is to exceed the powers of an American legislature, to prefer one religion to another, and to set up *pro tanto* the union of Church and State. So that if the reasoning of cases like those last cited were alone to be depended upon, Sunday laws would be doomed wherever the evil spirit of Brownism has not utterly enslaved the judicial mind.

There is, however, another class of cases which, while sticking to the view of Sunday laws as essentially religious regulations, yet considers that their design is not to improve the spiritual condition of the reluctant idler, but to enforce

¹ Varney vs. French, 19 N. H., 233.

³ Wolf's case, 3 S. & R., 48.

² Davis vs. Somerville, 128 Mass., 594.

⁴ Moore vs. Hagan, 2 Duv., 437.

idleness upon him in order to prevent him from interfering with the measures taken by other people for their own spiritual improvement. These cases maintain that the object of Sunday laws is "the preservation of good order and peace;"¹ and that these laws are passed in order that religious exercises may be performed without interruption;"² and "to prevent the disturbance of our citizens in their religious devotions;"³ and "to protect the religion of the community (*sic*) from unseemly hindrances;"⁴ for "it would be a small boon to declare the indefeasible right to worship God amid the din and confusion of secular employments."⁵

Now let us assume that the fact that idleness of the portion of the community which does not engage in "religious exercises," is a necessary condition to the proper performance of those exercises by the other portion — let us assume that this fact, if it existed, would be a sufficient reason for holding that an American legislature may make such idleness compulsory. The question then is, Does any such fact exist? — It does not. The claim that it does, is insulting to the pious, and utterly without foundation. It is insulting to the pious; for whether the "devotions" be regarded as public or private, to assume that the special police conditions of the Sunday law are necessary to their proper and satisfactory performance, is to assume that the pious do not care to perform them on any day but Sunday. For it cannot be imagined that a pious person would engage in religious exercises under any conditions which rendered impossible their performance in a proper manner according to his light, and in a manner satisfactory to himself.

But everybody knows that this claim that the provisions of the Sunday law are necessary for the proper and satisfactory performance of religious exercises, whether private or

¹ Hagan's Case, 20 How., Pr. 76.

² Adams vs. Gray, 19 Ver., 358.

³ Johnston's Case, 22 Pa., 102.

⁴ Pearce vs. Atwood, 13 Mass., 324.

⁵ Smith vs. Wilcox, 24 N. J., 353.

public, is as utterly false as it is insulting to the pious. Such persons "know no Sabbath" in their private devotions. Their petitions go up in the evening and the morning of the first day and of all the other days of the week alike. Their "family prayers" may differ in length, but do not differ in kind, on Sunday from those of other days. It has never been suggested by any of them that these "exercises" require compulsory idleness on the part of other people for their performance with perfect propriety and to the complete satisfaction of the performers.

The general reference, however, of the necessity of this compulsory idleness of other people is not to the matter of individual or private devotion, but to the exigencies of public worship. The fallacy of the claim and its insulting character is just as plain here as in the other cases. There are the Seventh-day Adventist, the Seventh-day Baptist, and the Jew,— these all have their special week-day service of public worship on Saturday. They have never asked the State to make idleness on that day compulsory upon other people, in order that those services might be properly and satisfactorily performed by themselves. Alonzo T. Jones, Esq., recently represented with consummate ability the Seventh-day Adventists in their great struggle against the attempt of the American Sabbath Union, to commit the general government to a preference among religions.¹

With the characteristic consistency and logical Christian spirit of the remarkable people to whom he belongs, Mr. Jones protested that he would be as dissatisfied with a "national recognition" of his Scriptural Sabbath, as he would be with the same recognition of the Sabbath according to Brownism. Any such proceeding he denounced as an embodiment of the union of Church and State which his people were pledged to oppose at all times and in any degree, and

¹ See "The National Sunday Law" argument before United States Senate Committee on Education and Labor, December 13, 1888.

without regard to whether their own or any other religion might be preferred thereby. But Mr. Jones went further, and pointed out that the Seventh-day Adventists were in no wise whatever interfered with, in their Saturday services, by the work of other people, so that they did not need to have idleness made compulsory on others for the proper and satisfactory performance of such services, even if they felt that it would be right for them to ask the State so to prefer their religion; and, as just said, the experience of the Seventh-day Baptist and of the Jew is precisely the same.

As a matter of fact, however, no pious person is willing to confine his participation in public religious services, any more than he is willing to confine his private or family religious exercises, to any one day in the week. Accordingly, we find the Roman Catholics with some sort of public religious exercise for every day in the year; and the Episcopalians observing, in like manner, Christmas, Good Friday, the Lenten period, etc. Yet neither Roman Catholic nor Episcopalian has ever complained that there is any lack of proper and satisfactory performance of either's public services on such occasions, occasioned by the fact that other people go on with their usual avocations and are not then compelled to be idle by act of the legislature.

The so-called "Evangelicals" of our time — those intellectual children of the New England Brownists, by whatever denominational name they may prefer to be styled — those to whose influence the enactments and spasmodic enforcement of every American Sunday law is due — hold public religious services on other days than Sunday. They have Monday night prayer-meetings and Wednesday and Friday night prayer-meetings, and certain among them are addicted to the practice of "holding revivals," during the progress of which they have public religious services several times a day, on every day in the week. Yet as to their week-day prayer-meetings, and their week-day revival meetings, it has never

been hinted that the services, or the results in the way of "conversions" have been in the slightest degree less satisfactory than the services or the results of the meetings held on Sunday. At the week-day prayer-meetings, the average attendance is possibly smaller than at Sunday services; but if the Sunday law is designed to increase the attendance at church, its concern is with the individual whom it compels to be idle, and thus we are forced back to our first head, and get rid of the question of his idleness being necessary to other peoples' public religious services. The "revivals," however, seem to be about as well patronized on week days as on Sundays, though not altogether by the same class of people.

Now all this, going to show that the special police conditions created by a Brownist Sunday law are not in fact necessary, or even of any particular value, so far as regards the proper and satisfactory performance of religious exercises, private or public, might seem to suggest the query, "Then, if no particular advantage in this regard is conferred, how is it that Sunday laws constitute a preference in religion and embody a union of Church and State?" And the answer is, They constitute such a preference and they embody such a union, not because they enable one set of men to show by their conduct that they accept a certain dogma, but because they compel another set of men to conform thereto. The Brownist dogma which they enforce is not, "Thou shalt not interfere with other peoples' devotions on Sunday." There is no dogma on this subject, but there is plenty of law, and the law is at the service of anybody that needs it. The Jew, the Catholic, or the Brownist, may hold public services at any time, and if any one interferes with the same, the police will lock him up.

The right of "peaceably assembling" exists on all days and nights, and needs no Sunday law for its protection. But this right has no relation to the character of the assembly

as religious or otherwise. The law in America has no means of ascertaining its character herein. When this point was mooted respecting a Spiritualist camp-meeting, the court left it to the jury.¹ But this is a mere evasion. An American jury can decide no question of which American law can take no cognizance. The character of a particular assembly as religious or otherwise cannot be legitimately submitted to a jury, unless the court is prepared to instruct them as a matter of law respecting the characteristics which distinguish a religious assembly from all others. It would be a usurpation for an American judge, sitting as a jury, to decide this question as to any particular meeting, because the law which he is sworn to administer gives him no guidance on the subject, affords him no means, *confers upon him no authority*, to decide it. It is neither more nor less of a usurpation for him to render a judgment on a verdict whereby a jury has affected to decide this question respecting any particular meeting, than it would be for him to render such a judgment after sitting himself as a jury on the case. The question being one beyond the purview of American law, and is not to be brought within it by the jury machinery or any other.

The law, then, protects the right "peaceably to assemble" without reference to the object of the assembly; whether it be held in the interests of politics, religion, dress-reform, or anything else, the prohibition of treason, riot, etc., being the one limitation of the right. And reason shows what the experience of Jews, etc., as well as Brownists has demonstrated; namely, that a religious assembly differs not one iota from any other kind of assembly in its need of State protection. The ability to keep abreast with what is going on, and to impress one's views upon others, the exercise of our faculties to the utmost in these directions, requires precisely the same police conditions at a religious assembly that it requires at a caucus, and no other police

¹ Feital vs. Middlesex R. R., 109 Mass., 398.

conditions whatever. And the establishment and maintenance of these identical police conditions for all lawful peaceful assemblies of its citizens is the duty and the sole duty of the State with reference to such assemblies. And this duty exists without Sunday laws, on Sunday as well as all other days, and is constantly exercised on Sunday without any reference at all to Sunday-law provisions. The interference with the proper and satisfactory performance of public religious services is "disorderly conduct" on Sunday or at any other time, and the interferer is punishable accordingly. It follows that Sunday laws, in this aspect of them, are, to say the least, superfluous and unnecessary.

It is an accepted maxim of American jurisprudence that the right of government to regulate the conduct of one man is limited strictly to the prevention of his interference with the legal rights of others. So that the unconstitutionality of the statutory requirement of Sunday idleness, if its sole object be to prevent the compulsory idler from interfering with the right of voluntary idlers "peaceably to assemble" for religious or any other purposes,—the unconstitutionality of this requirement is demonstrated when it is proven to be superfluous and unnecessary in this regard. But, now, busying themselves still with the religious aspect of the Sunday laws, and still adhering to our second view, that they are for the benefit of others than the reluctant idler, the courts have gone beyond this plain and irrefutable reasoning, and invented a new ground for sustaining such laws, based on religious considerations. They have found in them a necessary safeguard of certain rights, which they hold to be within the cognizance of the law, and which would be unprotected but for this requirement. And these rights are by no means confined to the circumstances of an assembly, nor even to the actual exercise of family or private devotion. *They belong to the day*, and have no essential connection either with the actual conduct of the voluntary idler, or with any actual objection

he may feel to a temporary break in the compulsory idleness of another. Let us take up these propositions separately.

A man may be neither at church, nor at family prayers, nor yet kneeling in his closet; he may be reading neither the Bible nor any other good book, nor meditating on religious subjects; he may be merely taking a walk and devising a scheme to despoil some "Egyptian" rival in Commerce street on Monday morning,—nevertheless, the Sunday law protects him in "rights intimately associated with the rights of conscience, which are worth preserving,—the right to rear a family with a becoming regard to the institutions of Christianity and without compelling them to witness hourly infractions of one of its fundamental laws;"¹ and accordingly it will prevent him from finding a grocery store open on his walk, because such a thing is "shocking to the community's sense of propriety, and brings into utter contempt the sacred and venerable institution of the Sabbath!"²

Now, it is plain that we have here something altogether unique in American law, namely, the assertion of its right to constrain one man to a certain line of conduct without the slightest reference to its physical effect on other people. I "witness" one man working noiselessly in a field, and another standing quietly inside of his own grocery store on Monday, and if I call upon a policeman to arrest either man, upon the ground that the sight of his behavior is offensive to me, I shall be in danger of a jury *de lunatico*. I "witness" the same sights on Sunday, and if I make the same complaint, the men will be arrested and fined. What makes the difference? What is the nature of this "offense" against me, done by this noiseless work or business of another on Sunday, which I may invoke the police-power of the State to punish, and which the doing of these things can by no possibility result in, on any other day in the year? The answer has been given by a North Carolina judge, who truth-

¹Johnson's Case, 22 Pa., 102.

²Shover's Case, 10 Ark., 259.

fully says that Sunday work "offends us not so much because it disturbs us in practicing for ourselves the religious duties or enjoying the salutary repose or recreation of that day, as that it is a breach of God's law and a violation of the party's own religious duty."¹

It has been shown that compulsory Sunday idleness on the part of one portion of the community is not necessary or even of any special advantage, so far as the proper and satisfactory performance of religious exercises, personal, domestic, or public, by the other portion is concerned. It might seem to follow that no preference is necessarily given to the religion of these last by the Sunday law. But the cases just cited answer this point. The preference does not consist in providing for the religious exercises of the voluntary idlers, special conditions which have no connection whatever with the proper and satisfactory performance of those exercises. The Brownists are guilty of intellectual dishonesty in making this claim. Their Sunday law is neither, desired nor passed with the slightest reference to religious exercises. It is desired and passed to give a preference to Brownism, and it does in fact give a preference thereto in this regard alone: *It incorporates into the civil law, a dogma of Brownism to the effect that men ought to be idle on Sunday, and by the infliction of civil penalties, it enforces submission to this dogma on those who do not accept it.* And, hence, it enables the Brownist to do what no other religionist can do in this "free" America of ours; namely, to have one whose views of religious duty do not coincide with the Brownist's, punished for acting upon his own views instead of acting on the views of the Brownist, or, in other words, punished for committing "a breach of his own religious duty," as the Brownist chooses to define and prescribe the same for him.

It is undeniable that these last cited cases correctly state the spirit and purpose of the Sunday laws, and it is equally

¹ Williams' Case, 4 Tre., 400.

undeniable that not one single person who is interested in the existence and enforcement of these laws, feels the slightest interest in any aspect of them save this alone. It is not because the Brownist would be interfered with or disturbed in any manner whatsoever respecting his religious devotions, or in any other respect imaginable, if there were no Sunday laws, that he is so concerned about such legislation. It is because he knows that they do constitute in intention and in fact a union *pro tanto* of the Brownist Church and the State (and for no other reason whatever) that he contends so hard for the life of these obsolete survivals of the English system.

If we take the other horn of the dilemma, the advocates of Sunday laws are not one particle advantaged. To assume the special police conditions created by those laws, to be essential to the proper and satisfactory preformance of religious exercises, and to have the State create such conditions on a day "observed" with special religious exercises by one set of religionists, while not creating them on the days so observed by other religionists, is plainly to give a preference to one religion over all others. And if one sect may constitutionally demand the creation of these special conditions on any particular day, every sect and every individual, may no less demand them on any other day, or during any portion of any day; so that the outcome is that the traffic and business of the entire community is to be stopped by the police whenever any member or members thereof may feel called upon to preach or to pray.

But the fact is, that, as American law has no means of defining the character of a meeting as religious or otherwise, so it is without the ability to determine the character of any particular exercise, private, domestic, or public, and to say whether it be a religious exercise or not. The dancing Dervish claims that his spinning around on one foot is a religious exercise; and American law cannot contradict him. And as that law is without the means of determining the

character of any particular exercise in this regard, it cannot of course decide what, if any, special police conditions are necessary to its proper and satisfactory performance. If there be any peculiarity about such an exercise, which causes it to require for its proper and satisfactory performance certain police conditions not required for the adequate performance of other lawful exercises, this peculiarity is altogether beyond the cognizance of American law. In other words it cannot determine or punish interference with religious exercises *as such* at all.

And, as with the meeting, so with the exercises, discrimination in favor of those assumedly religious is as unnecessary as it is impossible on the part of the law. It is undoubtedly true that a proper and satisfactory performance of any exercise, bodily or mental, involves two sets of conditions,—those of the environment, and those of the performer's own mental and physical state. But this is no more true of religious exercises than it is true of mental exercises of any other kind. And, in the case of all exercises, the law's concern is necessarily limited to the first set of conditions; namely, those of the environment. Thus, if one feels the need of the exercise of walking, the law will guarantee him the conditions of immunity from assault and robbery, freedom from obstructions on the highways, etc., etc. But it can by no means guarantee him that he will not lose the entire benefit of his walk, by reason of his worry of mind over the conduct of another, on the Sunday of his promenade or at any other time.

Just so with religious exercises. The law will guarantee the citizen that they shall not be interfered with by the conduct of other people any more than other lawful exercises. But while it will protect the privacy of the closet and the hearth against the intrusion of annoying people, it cannot undertake to protect *the mind* of the worshiper against the intrusion of distracting thoughts. The reason for the dis-

tion, and the absolute necessity for preserving it, are plain enough. The law deals with external things alone. The protection it gives to the citizen is protection against injuries which may be done him through some one of his five senses. The agencies at its command, to ascertain and punish injuries, do not avail beyond this limit.

Now, if religious meetings and religious exercises differ in no regard from other meetings and exercises, so far as their requisite environment is concerned, it follows that they need no Sunday law for their proper and satisfactory performance, unless there is a necessity for them in order to prevent some internal disturbance, some perturbation of the mind apart altogether from any assault on the senses. And this is, in truth, the very necessity and the only necessity that Sunday laws are designed to meet. Well has it been said: Sunday work "offends us not so much because it disturbs in practicing for ourselves the religious duties or enjoying the salutary repose of the day, as that it is in itself a breach of God's law and a violation of the party's own religious duty."¹

This is the very key-note, the gist and substance of the whole matter. In the mind of the voluntary Sunday idler there is a *distracting thought* that somebody somewhere is not idling like himself. And it is the disturbance thus caused to him, and that disturbance alone, against which he demands the protection of a Sunday law. But, as already said, such a disturbance, whether in religious exercises or in any other, is a mental or spiritual injury, and, as such, it belongs to a class of wrongs beyond the cognizance of the law whether in connection with religious exercises or any other. It is an offense to the emotions or sentiments alone, involving no physical or temporal consideration. The same observation applies to all injuries of a purely mental character — a class, or *genus*, of which we are considering only a species. Very

¹ Williams Case, 4 Ire., 400

cruel many such injuries are, involving often more suffering than great physical outrage. They may be done by language, silence, acts or omissions, and work inexpressible misery, yet give no cause of action at law or in equity. Parental affection, wifely love, political faith may be outraged as well as religious sentiment, yet *damna absque injuriis* alone be inflicted.

Take the case of a public political meeting. One might say with reason that a saw-mill running next door to his meeting place prevented him from keeping his mind steadily and profitably on the political instructions or exhortations of his favorite orator. But equity will enjoin the running of the mill for no such reason. The injury is spiritual or mental, and therefore beyond the cognizance of the law. Between the favorite orator and the favorite preacher the law can make no distinction without setting up a union of Church and State. Disorderly intrusion on any meetings may be prevented or punished, not because devotions or politics are interfered with, but because the *meeting* is disturbed. The fact that one of them happens to be a meeting for the purposes of devotion, is altogether immaterial in the eyes of the law, and gives it no claim whatever to any special degree of protection.

Take the case of private meditation or devotion. One might well say that the saw-mill prevented his reading with due appreciation his Homer, or doing himself justice in the production of a poem. The saw-mill may run nevertheless, and he can have no damages for its running. Between Homer and the Bible, the poem and the prayer, the law can make no distinction without setting up at once the union of Church and State.

It has been said that this is a necessary principle, which must be applied irrespective altogether of religion. Its necessity arises from the fact that injuries to the sentiments or emotions merely are of an intangible nature, and vary in

their intensity with the individual disposition of the injured party, to such an extent that no standard of damages can be established for their recompense. What to one person would be a source of mortification and grief for a lifetime, might not affect another in the least. Hence the law, which never attempts impossibilities, and merely represents, however roughly, the general *consensus*, or common sense, of the community, wisely ignores such injuries altogether. Not only will it refuse recovery for them when standing alone, but it will not even allow them to be considered to aggravate or increase the damages recovered for a physical injury. Thus, a mother may compel a railroad company to pay her for the killing of her son. But she is to be recompensed for the loss of his physical services, and the damages are to be computed on this basis alone. The injuries to her feelings, as, for instance, her agony of mind at seeing him mangled by the engine while she stood near, cannot be considered by the jury. Nor could it be shown in order to increase the mother's damages, that she was more affectionate and fonder of her child than the ordinary run of mothers; nor could the damages be diminished by proof that she was cold and heartless in her treatment of her son. Nor, on the other hand, would his affection or want of affection be in the least relevant. The law simply assumes that the mother has an interest in the life of her son which may be computed in cash, having regard to his wage-earning capacity, etc., etc., and compensates her on the same exclusively business principle, so far as she is concerned, upon which life-insurance is conducted.

There is a general agreement about loud noises, bad odors, explosives, etc., etc., as nuisances, because they interfere with physical comfort or safety. And so the law embodies a *consensus* that, for physical reasons, having regard to a change in physical conditions, some things may be branded as nuisances both by civil and criminal law if done

at night, which would not be so if done by day. But in the case of all these things, the standard of damages is the same for all classes of persons. Bad odors are frequently more objectionable to one person than to another; loud noises are distracting to some, matters of indifference to others; the proximity of explosives will alarm many, while a few will laugh at their terror. Of all these varying dispositions, these grades of emotional sensitiveness, the law takes no notice, because, as said, to measure and judge of them is beyond its power.

Applying this principle to injuries to religious emotions or sentiments, we see at once that they are beyond the reach of law. There are Christians whose religious sentiments are shocked by the erection of a Jewish synagogue, and even more so by the building of a church for any other denomination of Christians than their own. But the law has no balm for their wounds. And the want of this general *consensus* respecting religious exercises, even if it were possible for the law to determine what are such, and even if their requirement of special police conditions were conceded, is an all-sufficient reason for the law's declining to give them greater consideration than it gives to exercises of any other sort. At present there are many who say that all religious exercises are a sheer waste of time. There have always been thousands who have considered that unless the exercises are conducted under certain auspices, they are considerably worse than a sheer waste of time. Between these varying opinions the law has neither the jurisdiction, nor the means to decide; and therefore it confines itself to "keeping the peace" at all times, and allowing every citizen to indulge at all times in any sort of exercise not incompatible therewith, and to call it religious or by any other name according to his own will. Now, as already observed, the courts never miss the point in this connection except when they come to deal with Sunday laws. But the principle is just as applicable to

Sunday laws as anywhere else. And its result when applied to these laws is to prove they cannot be sustained as measures for the protection of religious exercises.

But, in truth, the construction judicially given to the Sunday laws when they are sustained on religious grounds, refutes the assumption that they have any necessary connection with the question of religious meetings or private or domestic religious exercises. Of course, if their object were to provide certain police conditions required for such meetings or exercises, the fact that no such meeting was going on in the neighborhood, or was actually interfered with, and that no such exercises on the part of any person were interrupted, would be a conclusive defense for the doing of an act on Sunday which might be done on other days. But the irrelevancy of the question whether meetings or exercises have really been interfered with by Sunday activity, is judicially settled by the view taken of the nature of that right which Sunday laws are held necessary to protect, and of the disturbance against which they are designed to guard.

One of the definitions of "to disturb" given by Webster is, "to agitate the mind," and he adds that the mind is disturbed by envy. This is an excellent illustration for the purpose. A mere emotion may disturb,—no sensation or perception of any kind is necessary. Whatever tends to awaken or kindle that emotion is the producer of a disturbance. The voluntary Sunday idler is thus disturbed by another's Sunday work, though he neither sees nor hears it. It weighs down his mind if he knows that it is going on. This knowledge arouses in him an emotion which, it must be admitted, is inconsistent with his use of the day for religious profit, being ninety per cent pure malice. The disturbance done to him we are told—and rightly told in the last citation—grows out of his conviction that for another person to work on Sunday is "a breach of God's law and a violation of the party's own religious duty."

¹ William's Case, 4 Ire., 400.

And it is evident that the disturbance produced by the conviction that a party is guilty of such conduct beyond the reach of the Brownist's sight or hearing is quite as great when he is not engaged in any religious exercises, alone or in company, as when his "services" are actually in progress. Nay, it must be the greater when he is otherwise altogether unoccupied, because then he is able to concentrate his whole energies on the reflection that, at the other end of the town, say, somebody is doing what the Brownist does not think he ought to do on Sunday. And this reflection cannot be otherwise than disquieting to a Brownist, the vital essence of whose mental life is the fixed belief that it is his business to set other people straight, and the feeling that the dignity and authority of Deity itself are insulted and defied by the perverse people who decline to be set straight according to the gospel of the Brownist.

Plainly enough, it is the disturbance *of himself* by this disquieting reflection which the Brownist voluntary idler wants a Sunday law to prevent. But we must not omit to notice an ingenious attempt to establish the position that the real purpose of the law is to prevent the disturbance of the non-Brownist involuntary idler. The words, "to the disturbance of others," are added to the prohibitions of work and labor in some of the statutes. They first appeared in the New Hampshire Sunday law. In construing them, the court adhered rigidly to the religious view of the statute, but adopted an entirely new view of its purpose. It considered that the object of compulsory Sunday idleness was not the spiritual betterment of the reluctant idler, nor the prevention of his interference with voluntary idlers in their religious exercises, nor yet the relief of their minds from the harrowing thought that somebody might be at work somewhere. At least it ignored these aspects of the subject altogether, and enunciated the proposition that the real *protégée* of the Sunday law is one

compulsory idler whom another may "disturb" in his idleness, *even with his perfect acquiescence* !

The court held that it was "safe" to give the word disturbance a "comprehensive meaning ;" and that the fact that people willingly submitted to, and took part in, a thing did not make it non-disturbing *to the party himself* ; or, in other words, that a man may be disturbed by doing what he wants to do ! The court then went on to say that the object of the statute was *to prevent the distracting of people from religious observance*, and that "nothing should be tolerated that tends to defeat it." And on the basis of this construction of the law it set aside a contract to buy a horse, because the vendee was disturbed by the offer, which he willingly discussed ; because a witness whom the vendee took with him to the conference was disturbed, though he went along willingly enough ; and because the wife of one of the parties was disturbed, as was proven by the fact that while the transaction was in process of consummation, she *sat in the room reading a news-paper* !¹

And, later, "disturbance" was said to consist in "acts calculated to turn the attention of those who are present, from their appropriate religious duties to matters of merely worldly concern," which evidently makes it a breach of the Sunday law to address a remark to a man on any other than religious topics, such, for example, as the state of the weather, and, accordingly, it was held that executing a will in the presence of others, disturbed them ; for, the court said, "if business has been transacted of a secular character, and not within the exceptions, and in which two or more persons have taken a part, the disturbance is a conclusion of law."¹

But common sense shows us that all this is uncommon nonsense. The question whether a man is "disturbed" or

¹ Varney vs. French, 19 N. H., 233,

¹ George vs. George, 47 N. H. 27 ; see also Thompson vs. Williams, 58 La. 248.

not by the conduct of another, is so evidently a matter altogether within the man's own breast that the logical maxim of the law is *volenti non fit injuria*,—that is to say, What a man willingly puts up with, entitles him to no damages at law, gives him no disturbance of which the law can take cognizance. And this logical maxim is always respected and applied by the courts, save in the matter of Sunday laws, wherewith, indeed, logic has nothing whatever to do.

But the Brownist is logical enough when he is intellectually honest with himself. And then he knows full well that when he swears out a warrant against A on the ground that the latter has disturbed B by doing business with him on Sunday, he is seeking to have A punished, not for any disturbance done to B, because in fact there was none; but he is seeking to have A punished because of his knowledge that the business *was done on Sunday*, though he neither saw nor heard anything of it, and did not even know of its being done till long after the Sunday of its doing was over. This it is that “disturbs” the Brownist’s soul to that degree that only the fining of A by the magistrate, can restore its equilibrium. And it has been shown that with the matter of soul-equilibrium American law has and can have nothing to do.

This ends our discussion and citations concerning the religious aspect of Sunday laws. It will not fail to strike the candid reader that there is something curious and suspicious about the very mention of religion in connection with the judicial consideration of an American statute. That American judges should be found recognizing the true character of Sunday laws, as civil embodiments of a religious dogma, and sustaining them on that very ground, is only one among many illustrations of Macaulay’s remark that “man is such an inconsistent creature that it is impossible to reason from his belief to his conduct, or from any one part of his belief to another.”

CHAPTER II.

Objections to the Secular Grounds on which Sunday Laws have been Sustained—The Ground that they are Necessary and Proper for the Physical Benefit of Others than the Compulsory Idler.

WE now pass to the consideration of the second class of cases sustaining Sunday laws ; namely, those which hold them constitutional in America on secular grounds, or for reasons disconnected with religion. While some of the later cases cling desperately to the religious view of the statutes, the proportion of such cases diminishes as we come "down the corridors of time." The evidence is plain that an uneasy consciousness that Sunday laws will have to be defended on some other than religious grounds, if they are to be defended at all, is penetrating the Brownist-tainted Bench of these United States more and more deeply every year. And hence the invention of those arguments we are next to examine, which make up what is here called the "secular view" of Sunday laws.

It has been shown that the religious views of these statutes are altogether unsatisfactory, and that no matter how the arguments based upon this view may be turned and twisted, they always end in an utterly indefensible conclusion. What is here called the secular view will be found equally unsound in its logic. But though the religious view is as unsound in its logic as the secular view, it has this great advantage over the latter,—it is intellectually honest, in so far, at least, that it starts out frankly and candidly, by recognizing our Sunday

laws as just what all men know them to be,—religious dogmas incorporated into American statutes. Whereas the secular view starts with utter dishonesty, under a pretense as false as it is audacious, and, being illogical even on its own false basis, is therefore rotten from end to end.

The secular view, like the religious view of Sunday laws is twofold, some cases holding that Sunday idleness is made compulsory because it is of physical benefit to the reluctant idler; others, that it is required for the sake of the community, without reference to this point, the good of the body politic, and not the advantage to the individual bodies of the citizens, being the real object aimed at. But the intellectual dishonesty of either assumption is evident. Everybody knows, as a matter of fact, that Sunday laws have never been passed or enforced with the slightest reference to the sanitary or social aspects of compulsory idleness.

We may make all the allowances we please for the *Zeitgeist* and the human nature of which judges are made, and still we must credit their intelligence at the expense of their sincerity, when we find them ignoring such plain propositions as these. Yet they have boldly ignored them, in order to set up the false pretense that these laws are passed for the secular advantage of the community at large; and the equally false pretense that they are passed for the secular benefit of the reluctant idler.

Let us consider these false pretenses in the order just given. We are told that "the stability of government, the welfare of the subject, and the interests of society, have made it necessary that the day of rest observed by the nation should be uniform, and that its observance should be to some extent compulsory;"¹ also, that "all agree that to the well-being of society, periods of rest are absolutely necessary. To be productive of the required advantage, these periods must recur at stated intervals, so that the mass of which the

¹ *Lindenmuller's Case*, 33 Barb., 548.

community is composed may enjoy a respite from labor at the same time. They may be established by common consent, or, as is conceded, the legislative power of the State may interfere to enforce the time of their stated return, and enforce obedience to the direction."¹ And again: "If rest is to be enjoined as a matter of public policy at stated intervals, it is obvious that public convenience would be much promoted by the community generally resting on the same day; for otherwise each individual would be much annoyed and hindered in finding that those with whom he had business to transact were resting on the day on which he was working. Sunday is selected as the day of rest because, if any other day had been named, it would have imposed unnecessarily onerous obligations on the community, inasmuch as many of them would have rested on Sunday as a religious duty."²

Now, that "like breeds like," is true of nothing more than of absurdities. Something has been said already concerning this much-abused word "rest," which is bandied about so recklessly in the discussion of Sunday laws. Let us observe that the absurdity of assuming that you can compel a man to rest against his will by compelling him to close his place of business, is here coupled with the absurdity that the legislature may indirectly compel him to keep his place of business open against his will, in order that another man may be "saved from annoyances and hindrances." Suppose I have a note to collect at the bank and am "annoyed" and "hindered" to find that my Hebrew banker is resting because it is Saturday. Suppose I have a bill to collect against a Christian and am annoyed and hindered to find that he is resting because his mother has just died. The writer has himself been more than once seriously annoyed as well as hindered by the discovery that others were resting while he was working, in consequence of the

¹ Id., 568.

² B. & O.'s Case, 15 W. Va., 362.

"early closing movement," which has lately shown the characteristics of an epidemic in some localities. And many an industrious man is annoyed and hindered likewise because others persist in resting late in bed while he is up and about betimes.

But whence does an American legislature get its right to prevent such annoyances as these, either directly or indirectly? There can be but one answer,—Nowhere, under any authority whatever, either expressed or implied. There is a real annoyance and hindrance of some by others in connection with Sunday business. But these are not caused by the discovery that others are resting while the discoverers are working, but by the knowledge that the industrious desire to work at a time which the lazy prefer to devote to idling. The only point that needs insistence here, is that the annoyance or hindrance caused to A by B's idling when A feels like working, is one with which, in a free government, the legislature has no concern whatever. Accordingly, if we concede that it is necessary or even so much as advisable to make idleness on one day compulsory, all the demands of the case would still be met by requiring this "observance" of everybody once a week, and naming no particular time for it. The "public convenience" might then be safely left to dictate whatever degree of uniformity was best in the selection of the time of idling.

And this evident truth suggests a reference to the exemption from the requirement of Sunday idleness which is accorded in many States to those who conscientiously or religiously observe some other day,—an exemption which would have been noticed under the "religious" cases but for its utility just here. Of course the acceptance of a conscientious, or religious observance of any other day as a substitute, or "blood-offering," in lieu of Sunday idleness, is an all-sufficient admission that the idleness is required *as a religious duty* of the idler, and is a frank avowal that the Sunday law

which accords such an exemption embodies a religious dogma and represents a union of Church and State. But, apart altogether from this consideration, the exemption also pricks the bubble of the necessity or even expediency of one uniform time of idleness by law established. So that even if the annoyance and hindrance of leaving every one to be idle just when he pleases, would justify legislative interference, provided these were of a sufficiently serious character, yet the very provisions of many Sunday laws show that, in fact, this annoyance and this hindrance are merely part of the petty troubles of life which are beyond the cognizance of law, if for no other reason, upon the principle *de minimis non curat lex*.

The annoyance and hindrance caused to a would-be worker by the discovery that others are resting when he wants them to work, with him, is not sufficient reason for the legislature's making idleness compulsory on all during a certain period. There is more plausibility about the suggestion that the disturbance of the resters by the would-be worker's insisting on doing business with them is a legitimate subject of prevention by statute, from a civil standpoint. It is correct to say, in the language of a West Virginia case,¹ that a citizen's rest should not be disturbed by others, and that such disturbance may be punished by law. Under the police power, the State notices that the rest of its citizens is taken at night, and therefore certain things may well be a nuisance at night which are not so in the daytime.

But what kind of rest is it which the law undertakes to protect? — Plainly, the physical rest, the rest of the body alone. Now it is palpably absurd to maintain that any conditions are necessary for this rest on one day which are not necessary every day. Some men slumber on Sunday afternoons only; others find it expedient to repose awhile every afternoon. If the first has a right to insist on special con-

¹ B. & O's. Case, 15 W. Va., 362.

ditions being provided by law for his weekly day-rest, it follows that the second has a right to the same conditions for his daily indulgence. And the business of the community cannot go on till everybody announces that his rest is finished. From such nonsense the law rescues itself by saying to every man, "If you need more physical rest than you get where you are, go to some other place. The occupation of your neighbor will not be interrupted in order that you may enjoy your extra repose."

But it is easy enough to show that with the disturbance of one man's physical rest by another, Sunday laws have nothing whatever to do. We are told, "While I am resting on the Sabbath in obedience to law, it is right and reasonable that my rest should not be disturbed by others. Such a disturbance by others of my rest is in its nature a nuisance, and Sabbath-breaking has been frequently classed with nuisances and punished as such. That these are the objects of our statutes are (*sic*) to my mind clearly shown by the wording."¹

It is not true, as affirmed in this extract, that "Sabbath-breaking has been frequently classed with nuisances and punished as such." Offenses against Sunday laws have never either here or in England been seriously "classed with nuisances," and no instances can be produced of their "punishment as such by any court of last resort;" and for a very good and all-sufficient reason. It was well said in Tennessee, "It would be a strained and far-fetched construction to hold that violations of the Sabbath *per se* would constitute a nuisance."²

It would, indeed. It would be a construction so absurd, so flatly contradictory to the settled principles of law, that no judge will ever dare to make it formally, however much the word may be carelessly employed in the *obiter* of Sunday-law opinions. The erroneous statement just quoted is due

¹ B. & O's Case, 15 W. Va., 362.

² Link's Case, 12 Lea., 444.

to a mental confusion too common among the laity, but fortunately more common among them than with our judges. A man may be punished for a nuisance committed on Sunday; but then he is punished for committing the nuisance, and not for “Sabbath-breaking.” And, in considering what constitutes a nuisance, American law makes no distinction between Sunday and any other day. So, a man may be punished for committing a breach of the peace on Sunday, but this is not “Sabbath-breaking.” And, as our courts have no means of distinguishing between the disturbance of a religious meeting and the disturbance of any other kind of meeting, just so they are absolutely without any *data* for discriminating between a breach of the peace on Sunday and a like breach on any other day.

Nuisances, then, and breaches of the peace are punished under the common law, or special statutes, without any reference whatever to “Sabbath-breaking,” an altogether distinct thing, and a special and peculiar crime created by the Brownist Sunday laws. They are punished whether committed on Sunday or any other day in any civilized country, though it be one wherein there is not and never was a Brownist Sunday law. They were punished in England before the first Brownist Sunday law was enacted by Parliament. They would continue to be punished in the United States, though every copy after that first Brownist Sunday law was repeated. But nuisances and breaches of the peace are things understood of all men, and apprehended through the physical senses, and their definition in the law is the same for all. We have seen that the only “nuisance” done the Brownist by his knowledge of the Sunday work which he neither sees nor hears, is peculiar to himself and beyond the law’s province. And the only disturbance of his rest and the only breach of his peace lie in this same knowledge, and are also without the pale of law.

The following extract will assist us to apprehend the

exact nature of the "rest" which Sunday laws are designed to protect against disturbance : —

"By the common law of the commonwealth, every citizen is entitled to enjoy the first day of the week in undisturbed quiet and repose, that he may exercise his natural and indefeasible right to worship Almighty God according to the dictates of his own conscience, and whatever actual noise or disorder hinders seriously, or destroys altogether, this inalienable right, is and always has been a breach of the peace."¹

Now the contradiction of this is apparent, as man is certainly not enjoying "undisturbed quiet and repose" who is "exercising his right to worship Almighty God." We here get on entirely new ground. There is no longer a question of disturbing physical rest,—in other words, of disturbing rest in the only real, practical sense of the word, so far as the law is concerned. The Brownist observer of Sunday has voluntarily abandoned his rest. He has not waited to be disturbed at it. He has *deliberately gone to work, and "disturbed" himself*. He is occupied on Sunday, as he is occupied on week days, only after a different fashion, about a different business. We have seen that the Seventh-day Adventists rightly maintain that for Christians to utilize the Sabbath for purposes of physical rest, is quite as much a desecration of it, as for them to spend the day in physical labor. The only point to be repeated just here is that, as a matter of fact, the conscientious Brownist does not spend his Sunday in physical rest at all, and that, therefore, whatever else he may be disturbed in, it is not in physical rest.

¹ Jeondelle's Case, 3 Phila., 509.

CHAPTER III.

The Same Continued — Objections to the Ground that Sunday Laws are Necessary and Proper for the Physical Benefit of the Compulsory Idler.

It is plain, then, that Sunday laws are neither necessary nor designed to protect the physical rest (the only kind of rest within the law's province) of one person from being disturbed by another. It remains to examine the validity of the claim that they are either designed or necessary to compel the individual to remain idle on one day in seven for his own physical benefit. This is a favorite ground of defense for Sunday laws, especially in the later cases.

We are told that "we are so constituted physically that the precise portion of time indicated by the Decalogue must be observed as a day of rest and relaxation: and nature, in the punishment inflicted for a violation of our physical laws, adds her sanction to the positive law promulgated at Sinai;"¹ and so precisely are we constituted in this regard that, whereas, if we fail to loaf away one seventh of our time, we shall be punished by nature, yet "it would be prejudicial to the public and tend to idleness if two sevenths of the time were devoted to rest."²

Bearing in mind that "public" here evidently refers to the individual "resters," and not to the body corporate, as an entire thing, and comparing this extract with that immediately preceding, we find a remarkable, physical law judicially established. We may fail to see how the prejudice

¹ *Lindenmuller's Case* 33 Barb. 548.

² *B. & O.'s Case*, 15 W. Va., 362.

to the public caused by making Sunday idleness compulsory, differs in kind when two days' idleness in each week is required by law from the prejudice caused when the requirement is confined to one day. It differs in degree, of course, but the first is only the greater of two evils. To rob a man of his right to "labor truly to earn his own living" on one hundred and four days in the year, is worse than to forbid him that privilege for fifty-two days; but it by no means follows that the latter proceeding is good. It would seem that, if one requirement "tends to idleness," the other must necessarily tend in the same direction. But this consideration will be dealt with hereafter.

For the present, it is sufficient to call attention to the scientific accuracy of the "law of nature" as extracted from these two citations. It smack's of mathematical precision, like the law of gravitation, Kepler's law, Dalton's hypothesis, etc., etc. "We *must* idle one day per week, or we cannot (physically) be saved; we *must not* idle more than one day in the week, or we shall (physically) be lost." What more definite, clear-cut enunciation could the most logical mind require? That it is a discovery made by the hygiologists of the Bench, and remains unknown even now to all other experts in physiology and biology, cannot detract from the glory of those who have not only ascertained the fact, but have expressed it so comprehensively, yet with such terseness and lucidity.

The judges who have ascertained and promulgated this wonderful truth of our being, are, it must be admitted, in a minority even among the pundits of the Bench. But, whether from jealousy, or ignorance, many judges have come very near supporting this view, and yet failed to give it full endorsement, or at least to express it as dogmatically and as precisely as it is here laid down.

Most of the cases of the class which we are now considering do not seem to be decided on the principle that one

day's idleness per week is necessary and two days' idleness is deadly. But their claim generally goes merely to this extent—that we shall be stronger, healthier, and longer-lived than otherwise, if we idle once a week. So, we are told that Sunday laws are passed to prevent “servile work, which is exhausting to the body;”¹ and because “the laboring part of the community must feel the institution of a day of rest as peculiarly adapted to invigorate their bodies for fresh exertions of activity.”²

Here, again, we will concede the facts, in order to examine into their value. Because work is “servile” (the application of this invidious word will also be considered hereafter), and because it is “exhausting to the body,” and because idleness is “invigorating,” may an American legislature therefore forbid the “serf” to earn his living at any time, and to swallow against his will the tonic of a day's loafing? This is paternalism, suitable enough for Russia where the “elders” of a village were lately flogged on their bare backs because of a deficiency in the town-taxes, and nobody was particularly “disturbed” about it. But it sounds strangely enough as a principle of American law. The freedom of an American citizen to labor when he will, how long he will, at what price he will, is commonly supposed to be part of his inheritance, won by his ancestors back from the feudal tyrants who had stolen it from their ancestors. Into this inheritance he comes when he attains his majority. Its sole limitation is that he shall not, by his labor, interfere with others. Where does an American legislature get its right to step into the place of those robber-barons of the olden time, and filch away the worker's right to judge for himself what is exhausting his body, and *the obligation which may be upon him to exhaust it in labor, “servile” or otherwise?* It has happened (though by no means in every case where the distinction has been claimed

¹ *Landers vs. R. R.*, 13 Abb. Pr. (N. S.), 338.

² *Wat's Case*, 3 S. & R., 48.

for the deceased by too partial friends) that a man has literally "worked himself to death," from his own greed, from the lust of fame, from a sense of duty, for the sake of his loved ones. The question whether or not he is called upon to do this lies between the man and his conscience. The question whether he is actually doing it is for his physician. At what point does the concern of the legislature with such an affair begin?

It lies among the very foundation-stones of our system of law that it never begins at all. The founders of our republic were especially jealous of legislative encroachment. The tendency of the legislative branch of any free government to dominate the other branches, and the fact that under such a system the real danger to individual liberty is in this tendency, and not in the judicial and executive powers, were things well known to Jefferson and his contemporaries. Nor were object lessons wanting. They knew the British theory of Parliamentary omnipotence. They knew the British history of how Parliament had made itself practically omnipotent and supreme over kings and judges by reason of its control of the nation's purse-strings. And while in form their rebellion was against King George, in fact it was caused by the manifestation as against them of the same aggressive, self-exalting, power-monopolizing spirit which had even in their day placed the executive and judiciary departments under the heel of the legislative branch of the English government. Accordingly, when they framed their own governments, the colonists were particularly careful to hedge about the legislative branches with express restrictions of many and various kinds. So, while we find it often said that the governor "may" do this, or the court "shall" do that, "THOU SHALT NOT" is the command invariably addressed to the legislature.

And wisdom is justified of her children herein. The Federal Congress and the State legislatures have fully

equaled the British Parliament in their aggressiveness, not only against the other departments of government, but against the people as well. Congress has at least once shown a determination to have its own way in spite of judicial opposition. The Constitution provides that there shall be a Supreme Court, but it does not name the number of judges who shall constitute the court. Congress once took advantage of this omission to "pack" that tribunal in order to accomplish its ends. The court pronounced an Act of Congress unconstitutional, whereupon Congress increased the number of the judges, a subservient president appointed to the new places lawyers known to hold the opposite view of the act, a new case was made up, and the constitutionality of the act was affirmed in due course. And thus did Congress reverse the Supreme Court and force upon the judicial branch of the government its own view of the extent of its own powers. This procedure is likely to be repeated whenever the Supreme Court seriously interferes with the liberty of Congress to legislate as it pleases.

The sins of the State legislatures in this regard of self-exaltation and conscienceless intrusion upon the domain of governors and courts, as well as oppressive restrictions on individual liberty, would fill many volumes, if detailed. The State Constitutions usually specify the number of the judges and courts, the boundaries of their jurisdictions, etc.; so that the connection between the State judiciary and the legislature is less intimate than that existing between Congress and the federal judiciary system. Yet a powerful and baleful influence is often indirectly brought to bear by legislatures on the courts of a State in order to override constitutional barriers.

Nor have the courts always shown a disposition to resist to the utmost the legislative ambition. It may be said that they are keenest to see and oppose intrusion upon their own domain, less zealous when the executive department is in-

vaded, and least of all concerned where the sole object of the legislature's aggression is a personal right or privilege of the private citizen. It is especially in cases of this latter kind that the courts have largely destroyed their own usefulness as guardians of the people's liberties, by laying down two principles as binding upon them when considering the constitutionality of a statute. The first principle is that an American legislature possesses the omnipotence of the British Parliament, except so far as it has been abridged, expressly or impliedly, by the establishment of the federal or State government. They say that the powers of the judiciary and executive are given, the powers of the legislature are restrained. So that if a judge or governor does a thing, his right to do it must be shown, if questioned. Whereas, if the legislature does a thing, the objector, to establish his case, must show that, somewhere or other, the right to do it is denied.

There is usually no excuse for making any distinction whatever between the legislative and the other branches of government, in this important matter. The analogy of the British system will not hold. The conception, as well as the entire body of constitutional law as we know it in America, is American and not for one whit of it are we indebted to England. The question of the constitutionality of a statute which is constantly arising here, could not arise in that country at all. The British Parliament is a part of the British Constitution. It is not its creature. It has been, indeed, largely its creator. It is its only amender. An unconstitutional act of Parliament is a contradiction in terms according to our law, because we understand by an unconstitutional legislative act one which is absolutely null and void. But the phrase has a meaning for the English lawyer. He understands at once that it applies to any Parliamentary act involving the exercise of a power not before exercised by Parliament, and is thus rather extra-constitutional, than

unconstitutional, corresponding to what we should call a *constitutional amendment*.

But an extra-constitutional act of Parliament is as valid as an act passed in the exercise of functions already recognized as belonging to the Parliamentary body. Thus we see in the British Parliament a depositary of that absolutism which has been deposited nowhere under our system, but has been absolutely withheld. In England the last resort is the Parliament. With us the last arbiter is the people. The nearest approach we have to the omnipotent British Parliament in the way of a representative assembly is the Constitutional Convention. But even the work of the Constitutional Convention must be approved by the people before it can become law.

And as to an American legislature, it has no part or lot whatever in the making of a constitution, though it may ask the people at any time if they will be graciously pleased to amend the same. The legislature is itself the creature of the Constitution. The creature cannot be greater than the Creator. If it derives its very existence from the Constitution, it would seem self-evident that from the Constitution alone it must derive every capacity which it possesses. The law of its being is the only law of its action. And thus we see that there is no foundation for the assumption that an American legislature, as such, is possessed of any degree of Parliamentary omnipotence, or differs in the least from an American judge or executive, in the obligation which rests upon it to show, in the written Constitution, either an expressed or an implied grant of every power which it presumes to exercise.

But it has been said that in nearly every American State, the "common law" of England is expressly adopted, and that legislative omnipotence is a part of that law. In the first place, as already stated, the qualifying words, "so far as applicable," usually follow the assertion of a "right to the

common law." But even without any qualification whatever, the adoption of that law must be taken in connection with other provisions in a "Bill of Rights," and the terms must be interpreted so as to harmonize with the rest, upon the principle of "construction as a whole." We have seen that, where we find in one clause an unqualified adoption of the common law of England and in another a declaration that there shall be no union of Church and State, no Church can be established by law, though the established Church is part of the common law of England.

And so, when we find in almost all the Constitutions an adoption of the common law, standing side by side with a solemn declaration that because the people have enumerated certain rights, they are not therefore to be prejudiced in respect to other rights "retained" by them, we see that the Parliamentary omnipotence of England has no place in a government born of such a Constitution, though Parliamentary omnipotence be the very corner-stone of English common law. And there are other provisions of our Constitutions which are altogether inconsistent with any distinction whatever between the legislature and the other branches of the government, in respect of the obligation to show an authority for its acts. Indeed, among the parts of the common law which we have expressly repudiated, is this very doctrine of legislative superiority. The English Parliament is a court as well as a legislature. But it is the American view that the legislative, judicial, and executive branches of the government ought "to be and remain forever distinct." One House of the British Parliament has for its normal and by far its most important function the sitting as a court of last resort.

But the judiciary's absolute independence of the legislature is no less a fundamental principle with us than its absolute separation therefrom. Here, then, is a very important qualification to be considered in connection with an

adoption of the common law, however general in its terms. And the disregard of this qualification, the surrender of their equal dignity in the face of its express guaranty, which is involved in the recognition of legislative omnipotence, where restraint does not appear, is indeed a most remarkable instance of self-abnegation on the part of our courts. Equality between the two branches absolutely demands that an act of the legislature shall be approached as freely and as impartially by the courts as the act of an individual, and that the mere fact that a statute has been passed by a legislature shall have no more influence upon the decision of its constitutionality, than the mere fact that a thing has been done by a respectable citizen ought to have upon the decision respecting its legality.

Indeed, a moment's consideration shows us that any other rule involves more than a degradation of the judiciary from its proper plane of perfect equality with the legislature. It involves a complete abdication of judicial functions. It makes of the legislature a court of final resort, to solve the doubts with which the judges confess themselves unable to deal, and allows the members of the legislature to be the judges in their own cases, and to take into their hands the law which the courts acknowledge that they are incompetent to administer. If, then, doubtful cases arise, as arise they must, since legislatures, language, and courts are human, surely all this presents a sufficient reason for the court's declining in such cases to be influenced by the view of the one party, the legislature that it has the right to exert a particular constraint on the other party to the dispute, namely, the individual citizen; and justifies the court in solving the doubt for itself, instead of thus referring it to the first party for solution; and surely, in so solving it, the court is bound to solve it in favor of the individual, upon the principle already enunciated that every American government, State and federal, is one of delegated and limited powers.

Again, the view that the legislature may do anything which it is not expressly or impliedly forbidden to do, violates the principles of the law of agency on which the American theory of government is based. American governments did not grow like the government of England. They were made. They are not principals, like Parliament, or even general agents. They are special agents in their entirety, and each branch is a special agent for its specific business. It is a common saying that the federal government is one of delegated powers, while the powers of the State governments are original. There is a peculiar sense in which the powers of the federal government may be called "delegated." It is confined, as other governments are not confined, in its sphere and its operations. But it by no means follows, and it is not in fact true, that the governments of the States are altogether unconfined.

The federal Constitution reserves "to the States or the people" the powers it does not grant. This reservation to "the States" is its peculiar feature herein. But the reservation "to the people" of the powers not by them granted to their State governments is, in some phraseology or other, made in the Constitution of nearly every State of our Union. "Bills of Rights" preface all these instruments. And these uniformly contain a solemn warning to legislatures and judges alike that "the enumeration of rights therein contained shall not be construed to deny other rights retained by the people." This negatives at once the idea that the English theory of Parliamentary omnipotence can be applied in America in reference to the whole government of a State; and it as conclusively forbids the application to the acts of an American legislature, of any other test of legality than the test which is proper alike for the acts of the judiciary and the acts of the executive — the question being properly put, not in the form, "Is authority to do this act anywhere

denied?" but in the form, "Is authority to do this act anywhere expressly or impliedly given?"

Some reliance for the position that the legislature may do anything which it is not forbidden expressly or impliedly to do, has been found in the fact already mentioned, that the provisions regarding the legislature generally consist of restrictions upon its action; whereas, those referring to the other departments of the government usually consist of grants of powers. It is argued that here is an implied recognition of a fundamental difference between the legislature on one side and the executive and judiciary on the other; and of the theory that the last two can claim no authority which is not given, whereas the first may do anything not forbidden. This is specious, but not solid. It is, as has been shown, inconsistent with the spirit of our institutions. And it is also inconsistent with other provisions in our Bills of Rights, and therefore cannot stand under the principle of "construction as a whole."

But, furthermore, no such recognition of the superior dignity of the legislative branch is inferable from the distinctive character of the provisions respecting it. There are good grounds for maintaining that the framing of those provisions in the negative, justifies the Courts rather in a zealous scrutiny of legislative action, than in a disposition to concede its validity. The number, no less than the terms of these inhibitions on the legislature, certainly attest the profound mistrust of such bodies, which permeated the minds of the people.

It has been noted that these inhibitions are mostly concerned with proceedings which Parliament had never undertaken for America, though some of the colonists had doubtless suffered personally, in England from such legislation as is forbidden in "Bills of Rights." But our forefathers knew as well as we know, and appreciated as we do not

appreciate, in this remote time, the story of Parliamentary oppression and tyranny, as practiced for many a year on English soil. And, having this knowledge and appreciation strong upon them, they seem to have all agreed with Jefferson in the conception that their liberties were in no danger from either the executive or the judiciary, under such a system of government as they proposed to construct; so that few express prohibitions were necessary to keep these branches harmless; whereas legislative encroachment not only against the other departments, but against the individual citizen was an ever present peril, needing many and strong safeguards of a specific sort, besides the general reservation of "rights retained" which undoubtedly is mainly designed as a restriction upon the legislature.

The courts, then, if inspired with the true feeling of their masters, the people, will be chary of binding themselves by any assumption which may throw wide the door to the aggressions of the legislative branch, and strictly order their course by the great American principle that government, in totality and every part, is a delegated agent for certain purposes, which to exceed is usurpation.

Closely connected with this fallacious principle of legislative omnipotence, wherever there appears no express or implied restraint, is the equally unfortunate rule that the courts will always hold a statute constitutional in a doubtful case. In fact, the two things are mutually inclusive. The result of either and of both is to *shift the burden of proof* from the legislature to which it belongs, on to the shoulders of the citizen, where it has no business to rest.

Only an attorney can appreciate the full significance of this question of burden of proof, and the tremendous results which follow from laying it on one side of a controversy, whether of law or fact, rather than on another. We have seen that the courts have degraded themselves by their extravagant view of legislative authority. If the self-inflicted indignity hurt the courts alone, the matter would be of less

importance than it is. But the citizen is also concerned. He must be necessarily injured by the surrender of the equality between the branches of his government for which he expressly stipulated when he established it. As already remarked, it involves a weakening of that barrier against legislative aggression which he intended to erect when he provided for a separate and independent judiciary. But, besides this, which is the concern of every citizen, the individual who is denying the constitutionality of any particular statute is specially aggrieved. The State, or rather the legislature, is on one side of a controversy, and he is on the other. The question in whose favor the decision ought to be, must very often be doubtful, since Constitutions, statutes, and judges are things of humanity. What reason can be given for always holding in such case that the statute is constitutional? It is believed to be demonstrable that true Americanism requires us to decide every such case precisely the other way.

"To give the legislature the benefit of the doubt," as the saying is, in such a case, is considered as a "courtesy" due to a branch of the government, co-equal in dignity with the court itself. Now, it may be questioned whether such an individual thing as courtesy can exist or be practiced between two abstractions. A judge may be courteous to a legislator. But it is not easy to see how a court as such can be courteous to a legislature as such. Nor is it quite clear with what moral propriety a question of courtesy can be allowed to affect the discharge of a dry official duty, or why a judge, when called upon to say whether a legislature has violated the law, should deem it consistent with his oath to allow his conclusions to be affected by considerations of courtesy, any more than when he is called upon to decide whether a citizen has violated the law.

But, bating all this, the exercise of courtesy is out of place where the welfare and happiness of other people than the parties are directly at stake. So that, though the courts

should be ever so courteous in allowing the legislature in a doubtful case to usurp judicial functions ; and though they should extend this courtesy to legislative attempts to hamper and impede the executive (where the latter would seem to have the better claim, if courtesy is to be consulted at all) ; and though the courts may thus indirectly deprive the people of the benefit of the most important among the services which the people have established courts to perform, — yet courtesy cannot be legitimately invoked to justify the concession of a doubtful power when its exercise consists in a direct infringement of a personal privilege held by a private citizen.

And the reason is plain enough. With us, it is not the legislature which resembles the Parliament, in that it need show no grant of right to do anything that it chooses. The individual citizen is the inheritor of this absolute authority in free America. He it is that existed before the Constitution and that made the Constitution, which, in turn, gave birth to the legislature. Before he made the Constitution, he could do anything that he pleased, so far as the law was concerned, for the Constitution is the beginning of law. But before the Constitution was made, the legislature could not even exist, and of course could do nothing at all. When the citizen, then, undertakes to do a certain thing, he is not obliged to show a lawful warrant for doing it, in the Constitution or statutes ; because he derives neither his existence nor faculties from any such source. The burden is on the disputer of his warrant in doing the thing, to show that the Constitution or some statute has deprived the doer of his *natural right* to act as he did.

This fundamental principle of American law is perfectly understood and consistently applied in our criminal jurisprudence. The advisability, in a civilization largely dominated by feminine sentimentalism, of holding the State to its ancient obligation of establishing “beyond a reasonable

doubt" the guilt of a prisoner, has been seriously questioned. It is argued by some thinkers that substantial justice would be now better subserved, if the decision were made in criminal, as it is in civil cases, according to a mere preponderance of the testimony either way. But, however this may be now, it is certain that in the "iron times" when this principle became fixed in the law, it was rightly considered as a necessary and most efficient safeguard against oppression and outrage. The doubts of old were mostly about the facts. The law was usually clear enough, and, as already indicated, *its constitutionality could not be questioned*. But many American statutes are verbose and cloudy; and the conditions of modern life give rise to cases of great intricacy, so that we have more trouble than our ancestors, both in getting at the facts, and in determining the law's application. But the courts have consistently applied the old rule of the burden of proof to the new doubts thus created. The State must prove its law and the application thereof to the facts after it has first proven the facts themselves. Before it can punish a man for anything that he has done, it must show not only that he did it, but that a law exists forbidding him to do it. The presumption is against his violation of the law, but it is none the less against the infringement by the law of his personal liberty. And among the doubts righteously thrown in a prisoner's favor is every reasonable doubt in the court's mind as to whether the law under which he is arraigned applies to the circumstances of his case.

The same righteous principle obviously requires that whenever there is a question between that creature of the Constitution, the legislature, and that progenitor of Constitution and legislature alike, the individual citizen, the right of the former to interfere with the latter, or to coerce him in any manner shall not be presumed, but every reasonable presumption shall be made the other way; and that the citizen shall

not be required to refer to the Constitution, which is no part of the law of his being, to vindicate his liberty, but the legislature shall be required to refer to the Constitution, which is the entire law of its being, in order to vindicate its right to abridge that liberty.

It may be conceded that the legislature ought to be presumed to believe in the constitutionality of any statute that it passes. Just so, the intent of a private citizen to violate the law is never assumed and must be proven, inferentially or otherwise. But the law is no respecter of persons. The intent necessary to justify the punishment of a citizen must be proven to the same extent and will be inferred from the same circumstances, in the case of one prisoner as in the case of another. And the judges who are sworn to give the people the benefit of the law and its protection against the aggressions of the legislature, no less than against aggressions by one citizen on the rights of another, are not at liberty, in the discharge of that duty, to respect that abstract personage, the legislature, whose actions may come under their purview.

The proper influence of "courtesy" in either case has this extent and no more : Upon the question whether the act itself of an individual is in violation of law, courtesy has no bearing whatever. But where the certain intent essential to constitute the violation of law is not presumed from the act, then courtesy demands that this intent shall not be imputed to legislature or individuals, but must be proven. To go further in either case is to become a respecter of persons. Mr. Smith may be a highly respectable citizen, and Mr. Jones a professional tramp. But the presumption of intent, like the presumption of act, is, in the theory of American law, whatever its practice under the jury system, precisely the same for Smith and Jones. And so the legislature may be, and no doubt in many cases is, a highly respectable body. But this is no reason why its construction of its own

powers should influence the judges upon that subject. To permit it to do so is at once to lay aside the judicial frame of mind and to approach the consideration of a statute with a bias fatal to the administration of strict justice.

This way of throwing on the citizen the burden of satisfying the court that the legislature has wrongfully placed a new restriction on his liberty, instead of compelling the legislature to adduce conclusive proof that it had the authority of law for imposing the restriction, is also inconsistent with reservations of American Constitutions which are clearly intended in the main to restrict legislative aggression, and which may be generally described as *the guarantees of rights of property in one's person and one's things* — the right of the citizen "to be secure in his person and property," the statement that "no person ought to be deprived of his liberty or property without due process of law," and so on. English history shows us the effect designed by those who used such language in the Constitutions of the first States from which it has been copied substantially into those of our later governments. The design was to restrain the legislature from interfering at its discretion with the personal freedom of the citizen, with his use or disposal of his person or his possessions.

The English Parliament had often interfered with these things. In consequence of its action, men had been repeatedly punished without trial and property taken without process. Similar actions are forbidden to American legislatures. And the effect of such provisions as we are now considering is not merely to forbid acts of this kind, but to require the courts to determine whether or not a certain act of the legislature is of the kind, without the slightest reference to the view which the legislature may have taken of the subject, as shown by its passage of the act. For, until the act is passed and has come before the court to be adjudicated, the question of legislative usurpation cannot arise; and the effect of these, or any other constitutional provisions

under which the fact of usurpation is claimed, will be obviously minimized, if not nullified altogether, by holding that the mere fact that the thing was done is presumptive evidence that no usurpation was committed. This digression, though somewhat lengthy, is not out of place in a book whose purpose is to make a general as well as special "plea for individual liberty," and it has a particular reference to the question of the sustainment of Sunday laws on secular grounds. We are now about to see, how, by repeated hammering, though daylight has not been let in, yet in some cases a glimmering doubt has penetrated the judicial mind whether, after all, these laws can be proven to be valid exercises of legislative authority. And, in such cases, they have sought shelter behind the two principles which we have been considering—the "residuum" of omnipotence "inherited" by American legislatures from the English Parliament, and the favorable ruling on constitutionality in a doubtful case.

The influence of these two fallacies is easily enough perceived in Sunday-law cases, as in others, even when they are not mentioned in terms. Thus we are told that the legislature has the power to prohibit work on Sunday, "as a matter pertaining to the civil well-being of the community,"¹ as though the fact that a thing pertains to the civil well-being of the community were an all-sufficient reason for claiming that an American legislature has the power to do it. It is not to be presumed that a legislature will pass a bill which does not, in its judgment, conduce to "the civil well-being of the community." But what are all the constitutional restrictions of the power of American legislatures for, except to limit the judgment of these bodies upon this very point? With many things the people have said in advance that the legislature shall have nothing whatever to do, however closely these things may pertain to the civil well-being. Yet, despite all

¹ Melborn vs. Eusley, 7 Jones, N. C., 356.

such restrictions, we find it laid down regarding Sunday idleness that whether the power to require it ought to be exercised, depends on the legislature's "sense of the public good,"¹ thus making their sense of the public good the sole and conclusive test of the constitutional authority to act.

As already shown, "courtesy" demands the assumption that the legislature intends its every act for the public good; so that if this intent is conclusive of the act's constitutionality, we are indeed in the condition of England under its Parliament, and there is no power in an American court to restrain the omnipotence of a legislature. But it is plain enough that all such reasoning as this utterly misses the gist of the matter. Of course, before they can pronounce a statute constitutional or unconstitutional, the courts must ascertain its intent—that is, they must determine what the legislature intends to do, before they can decide whether or not the legislature may lawfully do it. But, while the courts must deal with legislative intent, nothing is better settled than that with legislative *motive* the courts will have nothing whatever to do.²

The distinction may be well illustrated by the case in hand. The legislature makes idleness on Sunday compulsory. It has been shown that the result is to demoralize and debauch the citizens. But though this end were the real inspiring motive of the legislature, it would not in the slightest degree affect the question of the constitutionality of its action. On the other hand, the legislature may really administer Sunday idleness under the belief that it is a moral and physical prophylactic. But the influence of this motive would constitute no reason for holding that such administration was within its functions. In other words, the courts consider merely *what* the legislature wants to do, and then

¹ Sellers *vs.* Dugan 180, 489.

² See *Ex parte Mc Cardle*, 7 Wal. 506, *Doyle vs. Continental Sus. Co.*, 94 Su., S. 535.

whether the thing may be done ; *why* the legislature wants to do any particular thing the courts will never inquire.

In a California report we find it said that "the legislature has the power to repress what is hurtful to the public good, and must *generally* be the exclusive judge of what is or is not hurtful."¹ But, why should the word "generally" be used, when the general power of the legislature to determine such matters has never been denied? General principles of legislative action are dealt with in treatises on abstract law, but they are never mooted in court.

The issue of constitutionality is made not in regard to the legislature's general freedom, or its general obligation to repress what is hurtful to the general good. Its cardinal rule, the controlling and guiding purpose of everything that it does, should be the public good. "The welfare of the people is the highest law" for the legislature. But all this within the limited and prescribed sphere of its lawful actions. It may and should "generally," nay, always, in the discharge of its functions, judge of what is or is not hurtful. And within its sphere, too, it is the "exclusive" judge. Neither the judiciary nor the executive can decline, the one to sustain, the other to enforce, a legislative act because of its seeming hurtfulness to the public. This is a question of public policy, and the legislature, like the judiciary and the executive, is the sole and exclusive judge of the public policy of its own proceedings. The public policy of compulsory Sunday idleness has already been considered, *but with no reference to the constitutionality* of Sunday laws — their *expediency* being then alone under review.

But, now, while the legislature is always the judge, and always the exclusive judge of the public policy or expediency of its own proceedings, it is never the judge at all, in any American State, *of the constitutionality of those proceedings*. This is a different matter altogether from the other, and is as

¹ Andrew's Case, 18 Cal., 678.

exclusively a matter of the courts as the other is a matter of the legislature.

The question, then, being not the public policy, but the constitutionality of compulsory Sunday idleness, let us briefly examine the last point, without confusing it with the first. One of the strongest arguments against Sunday laws is their inconsistency with those constitutional provisions already alluded to, regarding infringements on what may be called the liberties of person and property. This would be perfectly conclusive if all other arguments were wanting.

It is undeniable that a law which forbids a man to labor for his living at any time that he may feel able and disposed or *in duty bound* to do so, seriously infringes a valuable liberty of person. It is undeniable that a law which compels a man to close his place of business at a certain time seriously infringes a valuable liberty of property. Now, every Sunday law does both of these things. And every Sunday law must, therefore, stand or fall by the test of the legislature's constitutional authority to do them both in the given case.

We have seen that under our American system, the existence of legislative power to make these infringements is not to be presumed but must be proven; and that if the case be doubtful, the benefit of the doubt must be given to the liberties and not to the infringements. Will the assertion of legislative power in the given case stand the test of these principles?

We read: "It is exclusively for the legislature to determine what acts should be prohibited as dangerous to the community;"¹ and that the right to the use of one's premises "must be exercised in such a manner as not to affect prejudicially the tranquillity or morality of the local public."²

Here, then, we have the justification for the special legislative infringements on our liberties of person and property known as Sunday laws. My private labor or the sale of my

¹ *Lindenmuller's Case*, 33 Bar., 548.

² *Hagues Case*, 20 How., Pr. 76.

goods may be forbidden because it is "dangerous" and disturbs the "tranquillity or morality" of other people. Let us waive the question of morality and concede both these propositions as they stand. Is it conceivable that the same labor can be dangerous on Sunday and safe at any other time? Is not the absurdity of such a notion patent on its face? Again, what sort of "tranquillity" is it that is "affected prejudicially" on Sunday by work and business, and remains all the rest of the week undisturbed by the same labor and business?

The nature of this tranquillity is fully demonstrated in the preceding chapter, where it is shown to be simply the mental tranquillity which is born of the consciousness that other people are behaving, under compulsion of law, as we believe that it is their religious duty to behave. And it is there also shown that this particular kind of tranquillity is not and cannot be brought within the protection of American law.

As to the "morality," it will probably be admitted that if it is really governed by the almanac, so that it is "affected prejudicially" by labor and business on one day and not on another, it is a morality so fluctuating and uncertain in its nature that it is hardly worth preserving. But the idle Sunday does not really belong to the domain of morality. As has been well said, "It is in no just sense a moral sentiment at all which impels us to the observance of Sunday for religious purposes more than any other day. It is but education and habit in the main, certainly. Moral feeling might dictate the devotion of a portion of our time to religious rites and solemnities, but could never indicate any particular time above all others."

We see, then, that neither "danger," "tranquillity" nor "morality" demand or justify legislative infringement of the liberties of person and property by the passage of Sunday

¹ Adams *vs.* Gay, 19 Vt., 358.

laws. The point is made clearer when we consider the general class of legislative powers to which these infringements have been referred. It is said that they are valid under "the police power."¹ This is supposed to be something inherent in every government by virtue of its existence, a necessary attribute of all civil authority, a power born with the State and essential to its being.

The phrase is extra-constitutional altogether. In no American Constitution are any "police powers" conferred by that name either on the government as a whole or any part of it. The phrase is objectionable at all times because it is suggestive of violence, as well as of unlimited possibilities in the way of oppression. Well has Judge Christiancy said, "Powers which can only be justified on this specific (police) ground, and which would otherwise be clearly prohibited by the Constitution, can be such only as are clearly necessary to the safety, comfort, and well-being of society; or so imperatively required by the public necessity as to lead to the rational and satisfactory conclusion that the framers of the Constitution could not, as men of ordinary prudence and foresight, have intended to prohibit their exercise in the particular case, notwithstanding the wording of the prohibition would otherwise include it."² And, though the use of this objectionable phrase be unfortunately rooted in our law, yet it is not to be juggled with in order to attribute to an American government any power not expressly or impliedly conferred upon it by the Constitution, the law of its being, nor to deprive the people of the benefit of their solemn declaration that the enumeration of certain of their rights in that Constitution shall not be construed as a surrender of other rights retained by them.

Grant that the "police power" is an essential attribute of every government. The fact remains that with us all governmental powers, like all governmental existence, depend on

¹ Frolickstein's Case, 40 Ala. 725.

² Walker's Case, 9 Mich., 281.

the Constitution and are defined and limited thereby. If the Constitution says that my liberties of person and property shall not be infringed except under certain limitations and with certain formalities, then the government cannot justify its forbidden infringement of those liberties by invoking this specter of the police power, as a mysterious entity outside of, and above, the Constitution—a source of authority higher than the people, and which has invested their servants with powers over them, which the people never bestowed, and which are pregnant with illimitable mischief. The “police power,” in fact, for us, means really nothing more than the power of the government. If the government has a power, it may exercise the same, whatever the power may be styled. But because a power may be rightly called “police,” it no more follows that an American government may rightly exercise the power than it follows that such a government may do whatever “public policy” in its judgment requires to be done. The “domiciliary visit” and “administrative process” which are well-recognized exertions of the police power in Russia are not admissible here.

We see, then, that for an American government the claim of “police power” amounts to nothing but the claim of a power, the validity of which must be tested by the Constitution, so that “power” without the adjective is just as good as with it, and the phrase has no real meaning when the constitutionality of any governmental proceeding is in question.

This principle applies as well to each branch of the government as to its entirety. But the phrase “police powers” is especially out of place when applied to legislative acts. We have provided carefully for the separation of the three branches of the government, and have decreed that the functions of each shall, as far as possible, be its own exclusively. Now police powers are essentially executive. “To take care that the laws are faithfully executed”—that duty prescribed for the governor in most constitutions—involves the “po-

lice power." The phrase has no proper connection with the making of laws, which is the business of the legislature. If we substitute "functions" for "powers," we see at once the force of this distinction. And, as the legislature has no police functions to perform, it is evident that it has, properly speaking, no police powers under which it may act.

The "police power" or, better, the power of an American government as a whole, is, then, somehow and somewhat limited. Let us, for the sake of argument, concede the whole phrase "police power," and consider what its limitations may be. First of all, as just indicated, it is subject to any express restrictions on governmental action found in the Constitution. But the general spirit which inspires these restrictions—the whole theory of delegated powers—throws a yet heavier restraint upon government. There are only two ways in which any branch of the government can infringe upon individual liberty,—either arbitrarily, at its caprice, without being called upon to give any reason whatever for its actions, or under fixed rules and principles, to be defined and applied by some other branch through whose decree its infringements may be nullified. When all three branches of the government conspire in the use of the "police power" to oppress the citizen, his only resort is the ballot or revolution. But, normally, each branch acts, as it is designed to act, as a check against the intrusion of the other branches on its own domain, and upon the liberties of the citizen. The governor, with his veto, is frequently an efficient and valuable check on legislative aggression. But our chief reliance in this regard must always be the courts, upon which we are also sometimes forced to depend for protection against executive usurpation as well as legislative.

The courts, then, constitute a tribunal before which the exercise of the police power, so-called, by the legislature or executive must be defended when challenged. Now, what is the test whereby the courts are to determine whether or not a

liberty of person or property has been lawfully infringed, in a challenged case, by either of the other branches of the government under the police power?

It has been said that the limitations of this power are "hard to define." But it is possible that we may discover a touchstone by which we can test the claim of any particular act to constitutional validity hereunder. As already indicated, the law administered by an American government cannot concern itself in any way with religious, spiritual, or mental injuries. And this last word at once suggests a still more important limitation on the "police power"—in fact, the primary and fundamental limitation of all. There must, then, be a secular injury involved in the exercise of a liberty of person or property, to justify its infringement under the police power of an American government. Now, this idea of an injury, from its very nature, requires that some other person than the doer of an act shall be affected by its doing. And this is the only sense in which the word "injury" can be used in American law. Here, then, is the primary and fundamental limitation of the police power with us—that it can infringe a liberty of person or property for one reason alone, namely, that, if the liberty were allowed to one person, a secular injury would result to another.

The maxim, *Sic utere tuo ut alienum non laedas*—"So use what is yours as not to injure another"—defines and exhausts the whole police power of a free American government. Under that power it may deal with actions and inactions so far as they affect the relations of the citizens with each other or with regard to treason, etc., against itself. It cannot go one step beyond these limitations. This is not a matter of theory. It results from the very nature of a free government—from the necessities of the case. A government which undertakes to do more than this—to restrict the liberty of person and property with reference to the individual—at once ceases to be free and becomes paternal and despotic.

The "secular view," then, of Sunday laws is a wrong view: *First*, in that it assumes compulsory idleness to be necessary or even desirable from a secular standpoint, so far as others than the reluctant idler are concerned; *secondly*, in that it assumes that compulsory idleness on Sunday is necessary or even desirable so far as the reluctant idler is concerned; and *thirdly*, in that it assumes that if compulsory idleness on Sunday were necessary or desirable either for others than the reluctant idler, or for the reluctant idler himself, or both, this consideration would justify an American legislature in making idleness on Sunday compulsory.

But this secular view of Sunday laws is not only wrong in these premises and in this conclusion; it is also wrong, it is shamefully, pitifully wrong, in that it is an *afterthought* of the courts, born of an intellectual dishonesty, which can only be held sincere by crediting the heart at the expense of the brains of our judges. For it must be that any judge whose knowledge is not the slave of his zeal for Brownism, is fully aware that not a single Sunday law has ever been passed, and not a single prosecution under a Sunday law has ever been made with the slightest reference to the secular aspect of the subject, or from the slightest regard for the secular advantages of Sunday idleness to the compulsory idler or to anybody else. He knows, what Mr. Tiedeman truthfully says, that the enactment and enforcement of Sunday laws have no other origin and inspiration than "the spirit of New England," which in colonial days "imposed a fine for absence from public worship;" that every such law does, in fact, exist and exist only "because of the religious character of the day;" and that no such law ever has existed or ever will exist "for any economical reason."¹

Knowing all this perfectly well; knowing that the origin and spirit and purpose and aim of all Sunday laws from the first to the last is simply to prefer the Brownist type of the

¹See Tiedeman's "Limitations of the Police Power," pp. 175, 176.

Puritan type of the Christian type of religion to all other types, and to force an outward deference to a peculiar dogma of that religion upon those who do not accept the dogma or believe in the religion ; knowing perfectly well that this is an unconstitutional purpose for an American legislature to cherish or accomplish, and that is both cherished and accomplished in every Sunday law of these American States,—knowing all these things perfectly well, is it competent for the courts to go beyond them ? Is it competent for them to say : “ Here is an attempt of the legislature to do what it is expressly forbidden to do ; here is a practical success in that attempt ; but all this is immaterial, provided that, in the course of accomplishing this illegal purpose, the legislature has indirectly also accomplished something else which it by no means intended, but which it had the power to do directly, had it been so disposed ? ”

This monstrous position has actually been taken in the course of the desperate judicial efforts to support Sunday laws on secular grounds. Says one judge, “ It may be conceded that the acts prohibited are only prohibited because they are such as would be offensive to public morals according to the standard of Christianity ”¹—meaning Brownism ; and another, “ though it may have been a motive with the law-makers to prohibit the profanation of a day regarded by them as sacred,—and certainly there are expressions used in the statute that justify this conclusion,—it is not perceived how this fact can vitally affect the question at issue ”² meaning the constitutionality of a Brownist Sunday law ; which in both these cases was sustained, notwithstanding the admissions quoted.

As has been said, this position is monstrous. Judge Cooley rightly observes, “ A court or legislature which should allow a change of public sentiment to influence it in giving to a written constitution a construction not warranted by the

¹ Kaser's case, 60 Cal., 177.

² Specht's case, 8 Pa., 312.

intention of its founders, would be justly charged with reckless disregard of official oath and public duty." Thus, if a statute is passed with a view of giving a forbidden preference to a certain religion, and its enforcement necessarily involves the giving of such preference, the statute is void. That it may incidentally accomplish other purposes legitimately within the purview of the legislature will not save it. To postulate these last as the motives and foundations of its passage when one knows that the postulate is utterly false, is surely a great scandal and reproach to our judiciary. Yet this is just what is done in the class of cases now under consideration. Driven out of the position that these acts are legitimate manifestations of the Christianity inherent in American law, the courts actually fall back upon the proposition that they are measures of hygiene, and *therefore constitutional!*

Now, not only does what Judge Cooley here says about a "written constitution" apply also to a statute, but what he says about a "change of public sentiment" applies with equal force to an awakening of the public consciousness. Sunday laws were first passed in the United States on religious grounds alone. The inspiration of the most recent Sunday laws is the same as that of the first. It is not so much a change of public sentiment, though that is an important, and a daily growing force on the right side, as an *awakening* of the public consciousness to the true character and meaning of these laws, which is forcing on the issue of their repeal. The awakening public consciousness is grasping the fact that Sunday laws are intended to constitute, and do in fact constitute, a preference of one religion over another. The public conscience will soon demand their repeal for this reason. What can we say, then, but that those judges are "justly chargeable with reckless disregard of official oath and public duty," who, in order to check this just demand and preserve these foul blots on American statute books, permit themselves the

subterfuge of pretending that Sunday laws are based on secular grounds, thereby giving them what they know to be "a construction not warranted by the intention" of the makers and supporters of these statutes?

Again, it is not law which any court would dare to lay down except in Sunday cases, that a statute which is passed to accomplish an unconstitutional purpose, and which cannot be enforced without accomplishing that purpose, is to be sustained because, as an incident or accident of its accomplishment, some result is reached which was not contemplated, but which the legislature might have accomplished constitutionally by a different statute.

We have seen in this chapter that if Sunday laws were designed for the hygienic benefit of the reluctant idler, or, being otherwise designed, incidentally accomplished that benefit, neither the design, nor the incidental result would render them constitutional. We have seen that it is historically false that the original Sabbath laws had the slightest reference to hygienic considerations. It remains to show here that the falsehood of this "secular defense" of Sunday laws is quite as apparent from their contents as from their history; so that judges who appeal to this "afterthought" of the "holiday theory," as it is sometimes called, deliberately close their eyes not merely to the history, but to the very language of the statute before them.

It is a fact that, in order to sustain a Sunday law on secular grounds, it is necessary not merely to defy history, old and recent, but also to ignore the very language of the statute itself. Up to this point, barring the occasional mention of "the idle and cheerless Sunday" the Brownist Sunday law has been uniformly spoken of as if it interfered solely with the liberty of labor and business. This has been done from the conscientious desire to give its defenders the advantage of the strongest position which their case can occupy. It is, naturally enough, a favorite position with them. Whatever

fallacies may be urged on behalf of a Sunday law with any degree of plausibility, can be urged from this position alone. Indefensible as it is, when assailed by common sense, this position may at least be occupied and held until fired on. But there is another position which no intelligent Brownist has ventured to take for many a day, upon this subject, and yet which must necessarily be taken and defended if Sunday laws are to be justified. Everything alleged concerning the secular advantage resulting from interference by these laws with the liberties of labor and business might be conceded, and it might further be conceded that this secular advantage was an all-sufficient reason for their enactment by an American legislature ; and yet the rightful presence of a Sunday law upon an American statute book would remain as far as ever from being established.

The interference with the liberties of labor and business is only one half, and perhaps the least objectionable half of a Brownist Sunday law. Every Brownist Sunday law interferes with the liberty of *play* also. This double interference is essential to the very nature of a Brownist Sunday law. *And unless a statute at one and the same time prohibits work and play, then, whatever else it may be, it is not a Brownist Sunday law at all.* And the Brownist Sunday law with this combined prohibition is the only Sunday law with which we in the United States are concerned.

It is worth noting, in this connection, that the very first Brownist Sunday law passed in England (1623) said not a word about work, but proclaimed that "the holy keeping of the Lord's day" was "profaned" by people going to "bear-baiting, bull-baiting, interludes, common plays, and other unlawful *exercises and practices*," and with such play, not work, it proceeded to interfere. The next thing aimed at was "traveling." And it was not till nine years after the first Act that "worldly work" was forbidden to be done, "without reasonable cause," a liberal saving enough for the

times. And a century and a half elapsed after the passage of the first Brownist Sunday law before any work of one's "ordinary calling," with the famous savings of "necessity and charity," was forbidden on Sunday.

The combined prohibition of work and play, then, is found in all of our American Sunday laws; and this last characteristic of their Sunday laws intelligent Brownists fight very shy of discussing. They prate at length of the "heat of business competition," the "poor, overworked laborer," "the need of rest," and all that sort of thing, when they know that the very contents of their Sunday laws conclusively refute the idea that they are passed to mitigate any such conditions as these; when they know that if the legislature was exercising the paternal function which the passage of such laws involves, for the physical benefit of its children, the adult citizens, it would extend its paternalism from the prohibition of work to the utmost possible encouragement of play; for that play is a far better antidote to the corrosive effects of work than mere idling, euphoniously called "rest," is an axiom of physiology.

Hence, if there were any truth in the idea that Sunday laws are passed and enforced on secular grounds, then a Sunday law enacted by a legislature composed of sensible men — and what American legislature was ever otherwise composed? — would not have its prohibitions of work combined with prohibitions of play, but rather supplemented by provisions designed to make play on Sunday specially easy and attractive — such, for instance, as requirements that all public institutions, libraries, and museums, and the like should be open all day; that all theaters should give matinee performances at half price; that railroads and steamboats should run excursions at reduced rates, and so on. What candid Brownist will not admit that in such a law, a true "secular Sunday" law, he would find heresy, blasphemy, diabolism pure and simple, a surrender of the State to the powers of

darkness, a thing to be detested and fought against in season and out of season ?

And not only is it true that this combined prohibition of work and play conclusively refutes the suggestion that Sunday laws are based on ideas of secular benefit to reluctant idlers ; but there is strong ground for the belief that, if the advocates of such laws had to part with either of these prohibitions, they would prefer to have the prohibition of work repealed rather than the prohibition of play. The fact that play and not work was the first thing legislated against by their intellectual ancestors points strongly to this conclusion.

And there is another purpose, not equally important with the flattery administered to the Brownist egotism by the State's "recognition" of his religion, but still an essential element of his interest in Sunday laws. This secondary, yet vital purpose is, by depriving people of other occupation, to indirectly drive them into church as the only refuge from the unendurable *ennui* of "rest." And it naturally occurs to the astute Brownist that to allow play and prohibit work, would probably tend less to drive people into church than to allow work and prohibit play.

And, again, the egotism of the Brownist, which it is the main object of the Sunday laws to flatter, requires that people shall be compelled to follow his way as far as possible, on his weekly Sabbath. They cannot now be directly compelled to follow his way of going several times to Church — and to *his* church, as he would have them compelled to do if he could, and did compel them to as long as he could in New England. But he hates play, being naturally gloomy, morose, and sour of disposition, as all true Brownists must be. And his way on Sunday, whether in church or outside, is to be more of a Brownist than on other days — that is to say, to be more averse to play, and more gloomy, morose, and sour. Now the mere compulsory abstention from play on Sunday, while it equals the compulsory abstaining from work, as a

tribute to the superior excellence of the Brownist religion, is unquestionably better adapted than is the abstaining from work to throw others into the gloomy, morose, and sour condition of mind, which is the characteristic Brownist condition.

Thus, in a Brownist-dominated town, when a stranger takes his walk through the streets on Sunday, he finds it not always easy to discriminate between the voluntary Brownist idler and the involuntary non-Brownist idler — the scowl of the first, worn as a religious rite or observance being closely imitated by the frown of the second, worn by way of protest, not so much against Brownist interference with his liberty of work, as against Brownist interference with his liberty of play. So the superficial Brownists, at least, are made by this last interference out of the reluctant idlers. And to cleanse the outside of the platter, while preserving a stolid indifference to the condition of the inside, is as much a characteristic tendency of modern Brownism as it was of the Pharisees and Sadducees of old.

And, finally, this prohibition of play embodies more of the spirit of persecution which is the life of all Sunday laws and another essential characteristic of Brownism than the prohibition of work. The Brownist's idea of his mission on earth is that he was born to set other people straight and keep them so — that is, to compel them to go his way. If they will not go his way, his first idea is to kill them, if he can, as the Brownists of New England massacred the Indians. When the public opinion of non-Brownists among whom he lives becomes so strong that this pleasant duty is denied him, he unwillingly falls back on mutilation, such as the Brownists of New England inflicted on the Quaker men and women. When even mutilation has been made impossible, then he can do no better than try to content himself with *making life as uncomfortable as possible* for the wretches whom he cannot "get at" in any other way. And this is the Brownist

spirit of persecution that survives in our Sunday laws, and this is the spirit which is more pleasantly pandered to by forbidding play than by forbidding work.

The wretch who will not go to church on Sunday might conceivably be made uncomfortable by requiring him to do extra work on that day ; but a certain amount of inconvenience by way of punishment for his contumacy can undoubtedly be inflicted on him by forbidding him to do any work, however much he may need the money he might earn for himself or others dependent on him—in fact, the greater his need, the greater his punishment. But that he shall be sentenced to spend twenty-four hours in every week in moping and misery, in self-tormenting thoughts, and uncongenial idleness,—in a confinement of soul and body worse than that of any jail,—this pleasant result of his non-Brownism can only be reached by that exquisitely and perfectly diabolical Brownist device—the combined prohibition of work and play contained in our American Sunday laws.

And, whether the Brownist most values the prohibition of play or the prohibition of work in his Sunday law, the first must evidently be retained as long as the second is retained, since to forbid the non-Brownist wretch to work and at the same time permit him to play, would utterly defeat the persecuting purpose of Sunday laws, and, so far from rendering him as uncomfortable as possible by way of penalty for his non-Brownism, might even result in his becoming more comfortable on Sunday than on other days, and actually looking forward to its recurrence with pleasure, as an occasion when he would have an extra degree of liberty and be able to enjoy himself after the fashion most agreeable to himself.

CHAPTER IV.

Objections to the Ground that Sunday Laws are Passed "to the General Interests of Morality."

WE now approach the consideration of a class of cases which form a sort of connecting link between the two classes just mentioned, as well as a connecting link between the two sub-divisions of those classes, respectively. The cases of this last class sustain Sunday laws as legislation in the interest of "morality." This allies them closely with the cases which sustain these laws as legislation in the interests of religion,—more closely, as will presently appear, in the minds of the judges who occupy this "moral" ground than right-thinking justifies. It also allies them closely with cases that sustain Sunday laws, as legislation in the interest of idleness, because morality is intimately connected with secular behavior. And these cases form a connecting link between the two sub-divisions of the classes just considered, because they regard Sunday laws as designed primarily for the benefit of the compulsory idler, and through him for the benefit of the community at large; the idea being that the standard of morality is higher or lower in a community according as compulsory idleness on Sunday is more or less strictly enforced.

A fundamental objection to Sunday laws has been found in the essential immorality of their spirit and effect. But the plan of this work demands that we shall not be content with establishing positions of our own, but shall attack and demolish, if it may be, every position occupied by our adversaries. And to this end it is necessary that a few words should be

added here to what has already been said about the moral aspect of Sunday laws.

The cases which rest Sunday laws on the moral basis are abundant, but, as heretofore, only a few will be cited. We are told in New York that the law considers "violation" of the first day of the week as immoral;¹ and the Pennsylvania Sunday law has been sustained on the ground that "the suppression of vice and immorality are State objects;"² and in Alabama the object of the law is "to prevent vice and immorality;"³ and so forth and so on.

Now this word "morality" is a much abused word. We have, for instance, a very entertaining book by Marmontel, called "*Coutes Moraux*," which means "Tales of Manners," but this is rendered in the English translation "Moral Tales," an absurd title in connection with some portions of the contents. "Morality" is derived from *mores*, and *mores* does mean manners or customs; and these are just the very matters with which American law is concerned. But morality has come to have with us a double sense,—an internal and an external sense.

In the first sense it applies to our conduct in relation to Deity; it means obedience to divine law, which American courts can neither ascertain nor enforce. This internal morality is the business of religion—the domain of the Church, into which the State has no more right to intrude than has the Church the right to meddle with the external morality or manners of the people by use of the State's police.

For the sake of clear thinking, we ought to confine the word "morals" to its internal application. But, etymologically, as has been said, it comes within the purview of the State, and it is subject to its police power. The police power deals with the manners of the people and with these

¹ Ruggle's Case, 8 Johns, 290.

² Omit's Case, 9 Harris, 426.

³ Hooper vs. Edwards, 18 Ala., 280.

alone. But manners or behavior presuppose intercourse with others; and this brings us back to our principle that it is only with the effect of our actions on others that the power has to do. Thus, to take other illustrations, the police power may compel me to be vaccinated, not because I would be more likely to catch the smallpox if unvaccinated, nor because if I caught it, I would probably die, but, because, unvaccinated, I am liable to become a source of contagion to other people. But the police power could not compel me to have a limb amputated because the bone was decayed; nor to wear a truss for rupture; nor to diet myself for dyspepsia; nor to exercise at stated intervals; *nor to rest*; though any or all of these be most excellent things for me to do. And this brings us to a brief consideration of one of the most singular pleas that has ever been made on behalf of the Sunday laws.

It being contended in a New York case that such a law was passed in excess of legislative powers, and that the question of excess *vel non* was cognizable by the court, the latter abdicated its jurisdiction over the matter in these words: "It is exclusively for the legislature to determine what acts should be prohibited as dangerous to the community. The laws of every civilized State embrace a long list of offenses, *mala prohibita*, as distinguished from those which are *mala in se*. If the argument in behalf of the plaintiff in error is sound, I see no way of saving the class of *mala prohibita*."¹

Now, the best thinkers have long since abandoned the distinction between *mala in se* and *mala prohibita*, which itself belongs to the union of Church and State, the *mala in se* being things which were considered as forbidden by Deity, the *mala prohibita*, things which man prohibits "out of his own head." That this is the true distinction is plain enough from the language of Blackstone² and other writers to date.

Thus, if we look into Judge Sharswood's edition of Blackstone, we shall find a long note on the original writer's ex-

¹ Lindenmuller's Case, 33 Barb., 548.

² Id., 54 seq.

planation of the difference between *mala prohibita* and *mala in se*, quoted from Judge Christian's edition. Judge Christian tangles himself up in an amusing effort to prove that there is a moral obligation to obey a law against stealing, which does not exist in regard to a "game-law." And Judge Sharswood gravely attacks the "morality" of this reasoning, while no less gravely asserting that its soundness as a legal principle, "though it once had sway in the courts, has been since repudiated." In Judge Sharswood's opinion, there is a moral obligation to obey *every* law of the community in which one lives.

Mr. Justice Blackstone wrote in an age in which heresy, and non-conformity, etc., were punishable as crimes, and in a country where the Established Church is one of the foundation-stones of the Constitution. It was, therefore, proper enough for him to distinguish in a legal treatise between the *mala in se*, the "immoral" things, contrary to the "law of Deity," which the civil law of his country also punished under its "divine right" to govern; and the *mala prohibita*, or things which were not penal under the law of Deity, and were punished by the law of his country without any reference to its mission as the upholder of the Almighty's authority, and the avenger of his affronted dignity.

Perhaps Judge Christian would have been further from his *Zeitgeist* than we have any right to expect a judge to be, had he seen that, along with the established Church and such crimes as heresy, the distinction between *mala prohibita* and *mala in se* vanished from American law at the Revolution. But Judge Sharswood might surely have been expected to tell us that our law has nothing whatever to do with moral obligations, has no means of defining them, no standard for measuring them; that whether a man's conscience ought to constrain him to obey any or all laws, is altogether between the man and his conscience, and therefore any discussion of this purely moral question is utterly out of place in an American law book, as far removed from the proper sphere

of such a work as the consideration of the Darwinian hypothesis; that the existence or non-existence of this moral obligation, being "a legal principle" in no sense whatever, could neither be affirmed nor "repudiated," by American courts under any conceivable combination of circumstances,—it being as completely beyond their cognizance or adjudication as the obligation to go to confession once a year or give "tithes" of all we possess, to the church, or to make a pilgrimage to Mecca; in one word; that American law has nothing whatever to do with morality or immorality, but deals with *civility and incivility* alone.

These two things are often confounded. But to confound them is to destroy the possibility of clear thinking. The classification of Blackstone, followed by the State codes, helps to the false conception. Sunday laws and the like are distinguished from other laws as being directed against "vice and immorality," that being the canting substitute of modern Brownism for Blackstone's frank phrase, "offenses against God and religion." And the cases follow the codes. And thus we find this fatal confusion of ideas, this fallacious conception of the true function and domain of American law, rooted strongly in our jurisprudence. But the fact remains that this law of ours does not distinguish, and has no means whereby to distinguish, between things as *bona* and as *mala*, *in se*. Its sole distinction is, and must forever of necessity remain, between things which are *prohibita*, and things which are *non prohibita*. *Mala in se* sometimes loosely applied to things prohibited by the common law, as distinguished from things prohibited by statute. But the phrase is wholly unnecessary, and, as it suggests a jurisdiction over morals possessed by no American tribunal, it ought to be discarded altogether.

Where the common law has been adopted in any State, whatever is forbidden by that law is *prohibitum*, just as whatever is forbidden by a State statute is so; that which is for-

bidden by neither, however, *malum in se* is beyond the purview of our courts. The class of *mala prohibita*, then, while its first name should be dropped, as irrelevant and suggesting a fallacy, is not only to be "saved," but it is to be proclaimed the only class of things with which the law has any concern whatever.

As already remarked in adopting the common law, the State Constitutions usually add some qualifying expression, e. g., "as far as applicable," "as may be adapted," etc. Where these words occur in a constitution, and it is claimed that something is *prohibitum* by the common law, besides settling this point, the court must go a step further and decide whether the prohibition is part of the common law, as adopted by the Constitution. Where it is claimed that something is *prohibitum* under a statute, the court must decide the validity of this claim by reference to the statute. And, finally, when a citizen is arraigned for the doing of a thing which is *prohibitum* by statute, and alleges in his defense that the passage of the statute is a thing *prohibitum* to the legislature, the courts must look into the Constitution, and fearlessly and without prejudice pronounce according thereto.

CHAPTER V.

The Objection that Sunday Laws are Unequal in their Enforcement, and are Class-Legislation.

To prohibit every kind or phase of activity, even of the body, upon the first day of the week would evidently involve the keeping of the entire population in a condition of dreamless sleep during the "sacred hours." For, if allowed to dream, some of them would inevitably toss about. And it is in vain to hope that the mass of the American people will ever be induced by the most stringent Sunday law to adopt for fifty-two days in the year the peculiar form of religious devotion attributed to certain Oriental "fakirs," which consists in assuming an uncomfortable position, and maintaining it indefinitely, awake, yet entirely oblivious to external things, and motionless in every muscle. In order to save themselves, then, from the obligation of including the administration of narcotics to the entire population every Saturday night among the "police powers" of the State, the enactors of Sunday laws are forced to put a "saving clause" into these statutes. This saving clause not only fatally betrays the true character and purpose of all Sunday laws, but introduces into them an element of uncertainty, which it is safe to say would cause them to be nullified by the courts if they were anything else but Sunday laws. The standard saving clause of Sunday laws is "works of necessity and charity excepted." Such works as these, then, are allowed on Sunday when other works are not. Why?

If Sunday laws are designed to prevent interference with the civil rights of some persons by others, how come either

of the exceptions to be made? It is evident that a work might be charitable in the strictest sense of the word so far as A is concerned, and necessary, from his standpoint, to be done for him by B, and yet infringe some civil right of C's. In such a case, where anything but a Sunday law is concerned, the law rightly and consistently declines to admit the charity of B or the necessity of A as any excuse for the violation of C's legal rights. Though I find a tramp starving, I may not rob a store to feed him. On the other hand, if Sunday laws have a civil purpose respecting the individual, and are designed to prevent his exhausting himself by continuous labor, why should he be permitted to do works of charity any more than any other work on Sunday? Is it not obvious that he may be quite as readily exhausted by such works as by work of any other kind? As a matter of fact, all persons who engage in what are called charitable works testify to their exhausting effects upon the physical strength, whatever spiritual benefit they may involve. These savings, then, of the Sunday laws, thus considered, sufficiently refute the suggestion that any civil right is intended to be or is in fact protected by them. But the saving of works of charity does more than this. It betrays frankly the true nature and purpose of all Sunday legislation. The question of charity is a question of religion altogether. The civil law has and can have no concern with the matter. The civil law says, "You shall not stretch out your hand to smite your brother;" religion says, "You must stretch out your hand to help your brother." The civil law has no means of determining what is or is not charity or of enforcing any obligations thereof. It cannot possibly discriminate between works of charity and works of any other sort. In forcing this discrimination upon the courts, by means of the saving of works of charity from the penalties of the Sunday law, the American legislatures have simply forced the courts to deal with a question of religious faith and dogma. Hence it is said: "The means which long-

established and common usage of religious congregations show to be reasonably necessary to advance the cause of religion may be deemed works of charity."¹

But not only are the courts thus forced to examine into a question of religion pure and simple—they are launched on a shoreless sea of 'uncertainty without compass or rudder by this saving of works of charity. They are no more competent to deal with the religious question of what is or is not a work of charity than with any other point of religious doctrine. The uncertainty thus injected into the law is well illustrated by the preceding case.

This held that a contract of subscription towards the erection of a church was valid as an act of charity. If so, on what ground is the actual building of the church on Sunday unlawful? Or the quarrying of the stone for its walls, or the dressing of timber for its interior? In a word, where are we to stop in the degree of closeness of connection between the act in question and "the advancement of the cause of religion?" It does not seem possible that the subtlest judicial ingenuity will succeed any better in the future than it has in the past, in affording a satisfactory answer to this question.

Again, it seems hardly consistent with the facts of the case or with verbal accuracy to make charity synonymous with religion. All charity is a matter of religion, but all religion is surely not a matter of charity. Religion concerns itself with man's relation to Deity, first of all, and, as a necessary part of that relation, with his duty to his fellow-man. It is only in this latter connection that it comes to embrace charity. Belief, and devotion, public or private, are no part of charity. And while the duty of charity is a religious duty, its performance is not necessarily concerned with the advancement of religion in the sense of the propagation of religious belief or the support of churches, etc. The fact seems to be that the framers of Sunday laws did not regard these things as work at all; and when they made their excep-

¹Dale vs Knapp, 98 Pa., 389.

tion of works of charity, they had in mind the relief of physical pain, the assisting of people in trouble, the doing of kindly, friendly acts, etc., etc. But surely this would throw down many bars which the advocates of Sunday laws are earnest to keep up. It would not merely allow, but include among the duties of Sunday charity, every practicable provision for the decent and orderly entertainment of the poor on Sunday, such as the opening of free libraries, museums, and the like, the running of free excursions, etc. There are many good people who feel that they are doing an act of charity when they combine to send a lot of poor children to the country for a week day, while nothing would induce them to have any part or lot in such a trip if it were made on Sunday. Again, the question might readily arise, Whose charity is it that excuses work under the Sunday law? Assuming that it is a charity in me to charter a steamer and take down the river a number of poor families on Sunday, will that fact be a defense for the captain and the engineer of the vessel, who work for pay as on other days?

Could the company recover the money I had agreed to pay if the agreement was made on Sunday? These considerations are adduced with the view of enforcing the proposition that the saving of works of charity in the Sunday laws introduces an element of uncertainty as to their meaning and application which renders their fair and uniform enforcement according to any fixed standard of interpretation impracticable, and would cause the courts to declare any other than a Sunday law absolutely void on account of the impossibility of construing its provisions by the light of any determinate principles known to the law.

But if an impenetrable cloud is cast over the force and application of the Sunday law by the presence of this word "charity," on what a bottomless, trackless sea are we launched by the use of that other word "necessity!" The tossings and flounderings, the hopeless "seeking after a sign," the

vain beating toward a harbor which does not exist, which we find in the cases on this subject are really painful to a sensitive mind.

We are even without a captain or a pilot whose authority to direct us on the way is undisputed. Who is to decide this question of necessity *vel non* in any given case? — the judge or the jury? If the jury, is it to announce its conclusion with or without previous instruction by the court? You shall find in the reports decisions either way.¹ But assuming that we have settled this preliminary matter, who is to tell us what is or is not necessity, we come next to the question how is he or are they to go about framing the definition for us and applying it to the differing states of fact? As in the case of charity, the first point to be settled is, Whose necessity is meant, — that of the one who does the work or that of the one for whom it is done? Nobody can tell. We are apt to think of a doctor's work as necessary every day. But doctors know that they pay many visits on Sundays, as well as other days, which are wholly unnecessary, so far as the patients are concerned. Will the fact that the fee for such a visit is a necessity to the doctor's comfort, exonerate him? Granting that it is not necessary for men to buy cigars, will it avail to plead that the seller cannot make a living without selling on Sunday? It is not necessary that the public should have the works of any writer; but suppose a man who writes for a living should find it impossible — with due regard for the real "rest" of nightly sleep — to get through his week's work without doing some of it on Sunday, is that a necessity within the meaning of the statute? Is the fact that passengers are going on errands of necessity a defense for the engine

¹ The question is one of fact in *Indiana, Edgerton's Case*, 68 Ind., 588; of law in *Vermont, Lyon vs. Strong*, 1 Vt., 219, and of law and fact in *Alabama, Hooper vs. Edwards*, 25 Ala., 528. Of course, in criminal cases, it is exclusively a question for the jury in those States where the jury is held to be the judge both of the law and the fact, as in *Maryland*.

driver or the locomotive engineer? It will not do to brush aside such points as these as presenting purely imaginary difficulties, and raising issues never likely to come up for judicial determination. As a matter of fact, just such questions have more than once been involved in Sunday law cases, with the inevitable result of hopeless irreconcilability in the rulings.¹ And, besides, Sunday laws are kept on our statute books by the spirit of persecution which belongs to the union of Church and State. The penalties prescribed in them are rarely exacted except when envy, hatred, malice, the meanest spite and jealousy prompt some Brownist to urge a prosecution. It is therefore important that all possible conditions which might make up a case under these laws, should be thoroughly examined and sifted. It is gratifying, too, to find that from whatever standpoint we approach the Sunday statutes, the absurdity and utter unreasonableness of such legislation is equally apparent.

But after we have ascertained who is to decide upon the necessity and whose necessity it is that is to be decided upon, it remains still to settle some rules of principles whereby the nature of the necessity may be defined, and a test furnished for its existence in any given case. And here indeed we are utterly lost, as any one of common sense might presuppose that we should be. It is not within the scope of this work exhaustively to expose the hopeless confusion and irreconcilable contradiction of all the cases wherein the judges have endeavored to attach some reasonable and definite meaning to this word.

It is sufficient for the present purpose to give an idea of the manner in which the problem has been met, and the extent to which it has been solved, by stating that three points

¹ In England, a barber is not excused by the fact that his Sunday shaving was a necessity for his customer. *Phillips vs. Tuness*, 4 Cl. & F., 234. But it is said that here the apothecary is justified in selling a medicine which is a necessity to the sick. *L. & N. R. R.'s Case*, 89 Ind., 291.

have been judicially settled ; namely, first, that the necessity of the Sunday law is not synonymous with convenience,¹ secondly, that it need not be absolute.² And thirdly, that it must be imperious.³

If the law, as thus settled, sounds nonsensical, we must remember, in justice to the courts, that it is rather a difficult matter to talk sense when attempting to construe and apply a statutory provision so nonsensical as this saving of works of necessity in the Sundaylaw. The only sensible thing that could be said of it, of course, would be to say that it is neither to be understood, explained, or applied, and that it renders the whole law void for uncertainty. But the courts have been so far, as a rule, too much under the influence of the *Zeitgeist* of Brownism to occupy this frank and perfectly unimpeachable position. And it is not to be wondered at that in wrestling with the monstrous task laid upon them by the passage of Sunday laws, in endeavoring to comprehend the incomprehensible, to explain the inexplicable, to apply that which is incapable of application by human intelligence to human affairs,—in a word, to make sense out of nonsense, they should, sometimes with a *naïve* unconsciousness, sometimes with a pretty evident suppressed consciousness of what they are doing, heap up more nonsense on the original mass supplied them by the legislature. It needs no argument to show that between absolute and imperious necessity no human intelligence can discriminate ; or that if we admit that our necessity is not absolute, then it ceases to have any practical value as an exception whatever, and becomes inextricably confused with convenience. The fact is, of course, that the distinction between a necessity and a convenience is altogether a matter of individual opinion, and can never by any man or set of men be determined for other people. It cannot be said that a man's life is necessary to him. In

¹ Allen vs. Duffie, 43 Mich., 1.
³ Ohmer's case, 34 Mo. App., 1, 15.

² Flagg vs. Milbury, 4 Cush., 243.

fact, to many, life is so far from being a necessity that it is an insupportable inconvenience and burden, as witness the suicides.

Getting out of bed on Sunday morning is certainly not a necessity, and, if the Brownists could have their will, there would be far more inconveniences out of it than in it, for other people during the day. Sunday meals are by no means a necessity. Any man can go for twenty-four hours without eating. True, it is convenient for us to take our meals on Sunday just as on other days. But it is expressly said that convenience is not enough. The Brownists have always fought with tooth and nail against the running of public vehicles on Sunday. But if riding be not necessary, certainly walking is equally a matter of mere convenience.

The case is bad enough when we thus deal with men in general. It is much worse when we come to deal with the different classes of society—when we remember that heredity and habit and circumstances may make that an imperious necessity to hundreds which to hundreds more may be a mere superfluity, or perhaps even objectionable. The equality of all men, before the law, that great boast of American freemen, disappears at once. The law becomes a respecter of persons, like that of Russia or Germany.

There are distinctions of race to be considered. Many an American is satisfied to observe Sunday by taking his whisky out of a jug behind a closet door; but that excellent and most desirable citizen, the industrious German, is deprived of a valued privilege when he is prevented from buying his beer fresh and drinking it at table with his family.

There are distinctions of class; and this inseparable and essential feature of all Sunday laws—that they are class-legislation, discriminating against one portion of the community and in favor of another, and practically setting up for one day in every week a privileged “order” among American citizens—is perhaps the most hateful and despicable of all

their hateful and despicable results. In every case but one to be mentioned presently the discrimination is against the poor man and in favor of the rich one. To stop the horse cars from running does not affect the life of those who can order a carriage whenever they want to ride ; but it at once makes a sharp distinction between them and their fellows who are thereby compelled to trudge on foot for miles, or else remain cooped up in their narrow tenements on the only day they have to enjoy the beauties and benefits of the country. It makes little difference to one with a fine house full of works of art and interesting books whether the public libraries and museums, etc., are opened or closed on Sunday. But to shut them on that day converts him into a member of an order in the State, having advantages and opportunities of which others are debarred at the only time that they could possibly avail themselves of them. The writer sincerely believes that this is the real reason why the grinding tyranny and cruelty of Sunday laws has so long been endured by the people, that their oppression falls exclusively on that great toiling, patient, long-suffering, voiceless mass of mankind who have no organ of their grievances, and whose real interests and wants are little consulted even in our model republic. He believes that if a serious attempt were ever made to interfere under these laws with the lives of the wealthy and powerful as the lives of the poor and humble are interfered with from time to time under them, the Sunday-law people would be immediately given their choice between repeal and revolution.

Yet, let the poor be somewhat consoled. If they are at a disadvantage as compared with the rich in the matter of mere comfort, or the enjoyment of life under the Sunday laws, it appears that when it comes to taking care of what they have, they are decidedly a privileged class. A learned judge of Vermont makes the following invaluable contribution to the elucidation of this knotty question of necessity : "The individual condition and necessities of each man may go far to

determine whether it is his duty to labor on Sunday to save property from destruction. The saving of a piece of property to one man might prevent great misery and suffering to himself and family—to another it might be of no consequence." So that, before we can settle whether a man is indictable or not under a Sunday law for extinguishing a fire which he discovers consuming his house, we must ascertain just how "imperiously" necessary it is to him that that particular house should be saved. If he has plenty of insurance on it, it is obvious that no real necessity for saving it exists; if he has plenty of money, and another house to move into at once, then the saving of that particular house is to him a mere matter of convenience, and mere convenience is not pleadable in defense to a charge of using water and buckets and working a pump on Sunday.

This single preference of the poor man over the rich one under the operation of the Sunday laws is, however, judicially established, and that in but a single State. It may be confidently asserted that no legislature in passing such a law has in contemplation the constraint of any but "the common herd" who are in fact the chief victims of these vicious enactments. The odious character of Sunday laws as class-legislation has been frankly recognized in England. It was said: "The statute does not apply to all persons, but to persons having ordinary callings which they exercise on the Sunday,"¹—that is to say, "nice people" were not to be bothered by it, but only poor devils who have to work for a living,—and not even professional or "gentlemen" workers, either, but only the "lower classes;" for, asked the court in another case, with justifiable indignation, "can it be contended that an attorney is a tradesman?"² And what is here frankly avowed of the English law is true of every Sunday law in the United States, whether such an effect is intended by its supporters or not. Every such law touches the life

¹ *Begbie vs. Levy*, 1 Tyrn., 130.

² *King vs. Whitmarsh*, 7 B. & C., 596.

and abridges the liberty of the poor man while it leaves the rich man to all intents and purposes as free as on any other day.

An examination of the cases will show that the "necessities" with which the courts have been called upon to deal in connection with Sunday laws are not really necessities even in the most liberal acceptance of that term. They are simply conveniences, comforts, part of the richness, largeness, enjoyment of lives that, under the most favorable conditions, are poor and narrow and miserable enough. The cruelty of interfering with the scant opportunity for such things which the toiling masses have, is hard to bring home to those who inflict it, because they are themselves perfectly comfortable on Sunday. There is something shockingly cold-blooded and heartless about this American class legislation, the wanton discomfort it works in the alleys, while leaving the life of the avenues untouched. It may be said of Sunday laws that not one of them has ever been passed from a worthy motive. Of what may be called "general laws" of this character, bigotry and self-righteousness constitute the source, of "special laws" the spirit is that of laziness or cheating. Thus in a Western State lazy barbers got a special act passed making their work illegal on Sunday, because industrious rivals worked on that day, which they desired to spend in loafing, and the competition annoyed them. In Maryland certain ice-men who desired to cheat their employers by getting from the latter seven days' pay for six days' work had an act passed making the delivery of ice on Sunday unlawful. Now, in the heat of the summer, ice comes as near to being a necessity in the stifling by-ways of Baltimore as anything can be. But observe the result of this outrageous law. Rich people, with ample facilities for preserving ice over Sunday, protected themselves easily enough by simply doubling their usual orders on Saturday night. But the poor, having "no place to

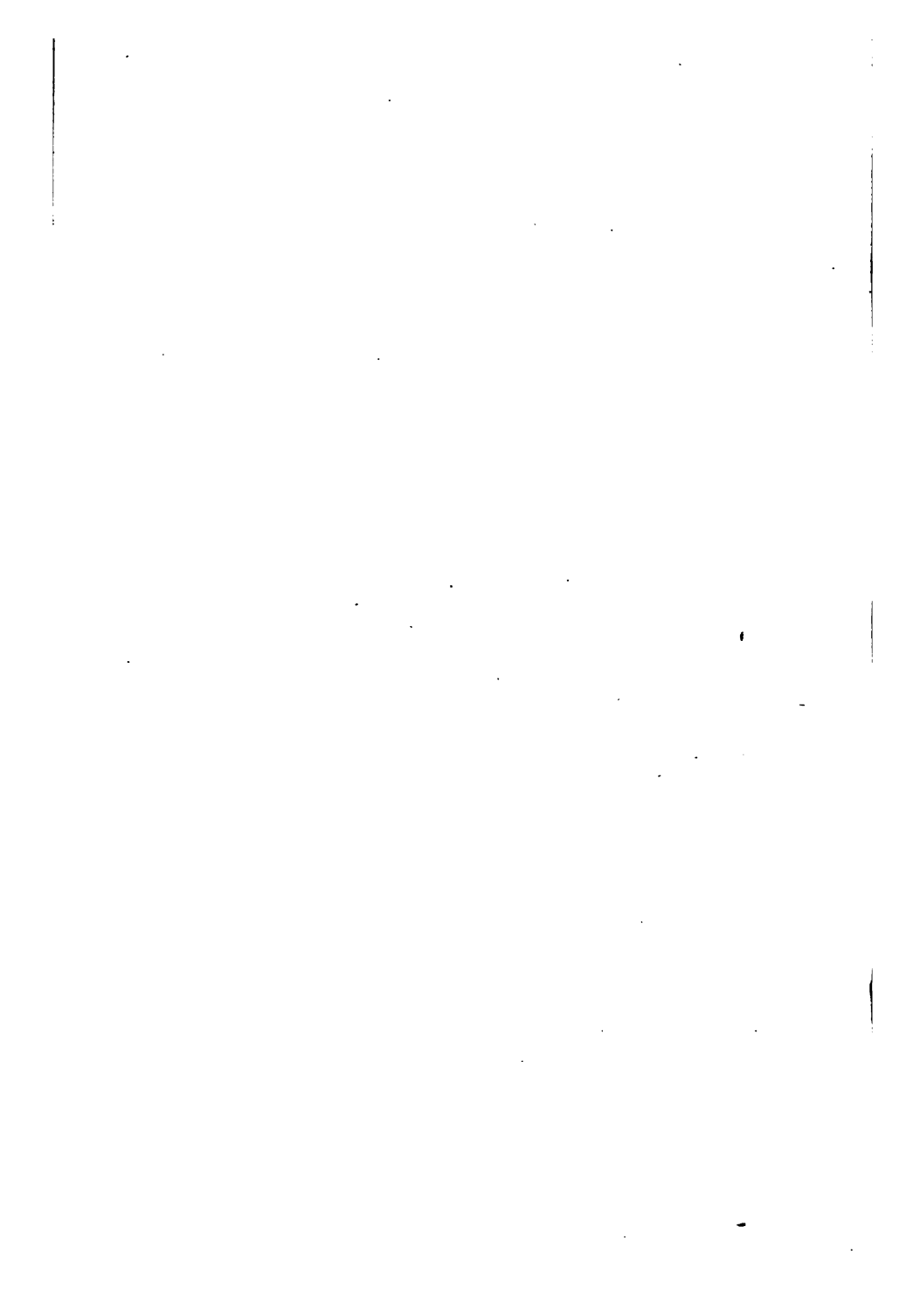
keep " more than one small piece, simply go without it, and drink warm water on "the Christian Sabbath."

The Sunday law, then, is one thing for the German and another thing for the American ; it is one thing for the rich man and another thing for the poor man ; the attempt to apply it in practice destroys of "necessity" that equality before the law which lies at the very foundation of American jurisprudence, and fatally discriminates between "classes" in the community. But how much more forcibly is this effect manifested when we come to the case of individual men. How utterly unequal must any application of the law be, how utterly absurd any attempt to apply it as between one man and another. Men who belong to the same races or "classes" often differ widely in their ideas of what is necessary for them, and individual differences herein are infinite in number. The determination of a judge or jury as to what was or was not necessary in a given case might work in great hardship to one man and affect another not in the slightest — even assuming that a judge or jury could be found capable of dealing with such a question on any rational basis.

PART IV.

SUPPLEMENTARY.

CLERICAL SLUMMING.



SUPPLEMENTARY.

*The Distinction between Immorality and between Vice and Crime,
with some Observations on Clerical Slumming.*

WHILE this work was preparing for the press, it was suggested to the author, by some intelligent supporters of its main thesis, that it might be useful to elucidate at greater length the distinction between morality and civility in relation to government, and also timely as well as germane to the topic, to say a few words about that strange "fad" of the day known as "clerical slumming."

It is a fact that the law has, in more than one instance, undertaken to enter the domain of morals and to control the conduct of the citizens irrespective of its civil aspects. But it is none the less a fact, in the opinion of the best publicists, that it has made a mistake in so doing, and a mistake which should be rigidly confined to its existing manifestations. These manifestations are found in laws which provide for the punishment of acts classified by Blackstone as "Offenses against God and Religion," and in laws which our later codes say are directed against "vice and immorality."

But our Brownist cleric comes back at us with this retort: "Why should you deny me my law against immorality because, as you say, it cannot be enforced? Conceding this to be true, would its acceptance as an argument not involve the reasoning away of all law? You have laws against murder and theft, and numerous other crimes, yet these crimes are constantly committed. Would not your argument require you to urge the repeal of all such laws, on the ground that

they cannot be enforced and ought not, therefore, to exist as laws? Indeed, is there a law on the statute book which would not have to 'go,' if non-enforceability at all times is a conclusive objection to it?" This very line of reasoning has been more than once adopted to break the force of the pretty generally admitted statement that "prohibition does not prohibit."

Its refutation is as follows: 1. The American principle being that that government is best which governs least, we will have in America the fewest possible laws, and no law that is not absolutely necessary. Laws against crimes, as murder and theft, are absolutely necessary in every organized society. But an organized society may exist and flourish without laws against vice. 2. The non-enforceability of a law is unquestionably a misfortune. It is inevitable, however, from the imperfection of human machinery and of human nature itself. But nothing tends to encourage a fatal disrespect for the law as a whole, so grievously as the existence of a statute that cannot be enforced. And this consideration furnishes an all-sufficient reason, apart from the American principle of "least possible government," why we should have the very smallest number of laws that we can get along with, and no law whatever which is not absolutely necessary. 3. The non-enforceability of laws against crime, and the non-enforceability of laws against vice, is alike in kind, because it is an attribute of all law. But there is a difference in degree, and this is what led to the use of the words "reasonably enforceable." And for this difference in degree there are good reasons, now to be elucidated.

Among the most important of these reasons is the difference between the view taken of vice and the view taken of crime by the community at large. There is a general consensus about crimes and a general agreement that they ought to be suppressed. Everybody feels a personal interest in the detection and punishment of a murderer. Everybody

will join in the cry, "Stop, thief!" But there is no such general consensus about vice. The avowed views of people on this subject are, as already intimated, of almost infinite variety. And many confess that they hold two sets of views about it; one, the "exoteric," or that which they keep for public exhibition, and the other, their "esoteric" or private or confidential view, which is more satisfactory to their own mind.

Again, while, as said, every one feels a personal interest in the criminal doings of his locality, no one, except those who make a life-business of setting others straight, really feels that he has any right to meddle with his neighbor's vices, unless some personal relation exists. And even where this does exist, there is, with other than professional reformers, an instinctive appreciation that the meddling of one man with another in this regard is rightfully limited to soft persuasion alone — as was the brotherly way of the Master. An ordinary man will not hesitate for an instant to use force to detain a fleeing murderer, or to protect himself or another from robbery; but he would never think of employing force to restrain a fellow-man from indulging in vices of his predilection. And, as he would not think of employing his own physical force for any such purpose, so his right instinct tells him that he has no business to invoke the force of the State for any such purpose, and that its legitimate application is confined to protecting him against those things, and those things only, against which it allows him on emergency to protect himself or another by the use of his own force.

Prosecutions for vice, then, as distinguished from prosecutions for crime, are weakened by reason of the difference between the view taken of vice and the view taken of crime by the average man. But perhaps a more serious cause of this comparative weakness is the distinction made between vice and crime by those who are charged with the work of criminal administration. Among these officials there is a very

general and strongly settled conviction that prosecutions for vice are futile, if not worse.

Their view is that vice depends on a law of supply and demand practically too strong for human law. Hence we find that police departments everywhere trouble themselves little with the vices of the community, and confine their energies almost exclusively to the repression of crime. Tradition and experience alike have led them to this conclusion, that whereas crime may be practically suppressed, vice may be harried and driven from place to place indefinitely, without its aggregate extent or prevalence being materially affected.

Of course, the Church has here a work to perform in producing such a state of mind among the citizens that the demand for, and consequently the supply of, vice will cease. That she can never fully perform it under the present dispensation we are told by the Master, who has left word that the wheat and the tares must grow together till he comes again. All that she can do is to strive with all her might, and so be found at her post, fighting still, on the day when her victory comes with him.

The view that vice is practically irrepressible by police power, which is a postulate of thought among the controlling spirits of all police departments, is, of course, fully concurred in by their subordinates, down to the rawest patrolman. An officer usually goes upon a new "beat" inhabited by vicious people without the slightest idea that he will be any more efficient than his predecessor in restraining their vicious propensities. And if he makes a spasmodic and despairing effort to distinguish himself by "pulling disorderly houses," he is apt to find his results disheartening, and to have his zeal depreciated by his superiors.

As a mere outcome of police experience in all ages and every place, then, the initiation of prosecutions for vice, the preliminary arrests, etc., are left to private enterprise, and come to be the work of societies and special agents. A

society formed for doing any part of the work which police experience pronounces impossible, for suppressing vice of any kind, whatever its specific name may be, is generically to be known as "A Society-for-Setting-Others-Straight." Now, the substitution of the machinery of a private society for the machinery of the great public society, the State, in a prosecution; the attempt to turn the force of the State against an individual by other means than those regularly in operation for that purpose, and which are presumably employed by the regular officials whenever social expediency demands,—this thing is likely to prejudice a case in the eyes of the average man. He perceives at once that the activity of the professional reformers who constitute the society, is not due to any injury which has been done to them by the vicious act. The same instinct which makes him feel that it is none of his business to forcibly interfere with his neighbor's vices, makes him feel that the professional reformer should not be encouraged in his intermeddling with the vices of other people. He finds, as said, a regularly constituted system of administration, the result of the experience of ages, for the express purpose of originating and conducting prosecutions. He is apt to inquire with a note of sarcasm how this came to be the business of the professional reformer. Sometimes the average man will go so far as to intimate that it would be a good thing for the professional reformer to go home and use a strong mirror and pick out the moral beam from his own eye, before undertaking to remove the moral motes from the eyes of other people. And thus the professional reformer who instigates prosecutions for vice is discredited, and the prosecutions are weakened in advance.

It is evident that cases which have to be "worked up" by private enterprise, without the cordial assistance and even with the strong disfavor of the police department, are likely to be weak and ineffectual in their preparation. The complaint that the special agents, or the detectives of a Society-

for-Setting-Others-Straight are not cordially aided, but are rather condemned by the police in their undertaking, is probably, as a rule, well-founded. It is not to be expected that the police should admit that the private detectives of the society can by any possibility succeed where police machinery has always failed ; so that the detective's errand is absurd. And his presence is something of an insult to the department, as a whole, and the individual patrolman whose "beat" he invades, because it suggests a duty unperformed, which is to the police mind an unfair imputation, the thing in question—the suppression of vice—being not possible of performance.

It is true that the private detective of the Society-for-Setting-Others-Straight may, in time, become so expert at his business as to be practically independent of police countenance or help. But, whatever degree of weakness in the preparation may thus in time be eliminated, there remains always, apparently irremediable, an essential weakness of presentation in prosecutions for vice. However skillful and complete the work of securing the evidence, it is detective work ; however clear and conclusive the testimony, it is detective testimony. Nor is it any less detective work and testimony because, as sometimes happens (see *post*), it is done out of pure zeal and without compensation.

Witnesses, in respect of their attitude toward a case, may be divided into two classes,—the willing and the unwilling. A case has an essential element of weakness about it which has to depend, in whole or in part, on the testimony of unwilling witnesses. That prosecutions for vice are peculiarly unfortunate in this regard we shall see presently. It is important now to note that they are equally unfortunate, to say the least, in the character and attitude of their willing witnesses. Absolutely the only willing witnesses in prosecutions for vice are detectives. If the professional reformer has done his own detective work and is, therefore, a witness in the

case, as well as an instigator of the prosecution, his character as a generally well-behaved citizen is almost merged and lost in his character as a busy-body, and in his character of voluntary detective.

The judgment of the average man is against detective evidence. While it is generally conceded that the detective business is necessary for the suppression of crime, the detective as a witness is by equally general impulse, mistrusted. It is considered that his occupation tends to harden him to deceit. And even the professional detective employed by the State, though he has no special interest in any one class of cases, is naturally zealous to vindicate his own skill and acuteness in every prosecution. How much stronger is the self-interest of the professional reformer when he does his own detective work ; and the vindication of his voluntary assumption of that function, unpleasant in the eyes of all men, depends on the result of his activity, on his ability to convict the wretch whom he has run to earth ! And this zeal is by no means diminished by the passionate desire for *self-vindication*. Deep in the inmost consciousness of every professional reformer of whose own reform there is any hope, lurks the feeling that his work and testimony as a volunteer detective are viewed with just disfavor by the average man. That he has been about an unworthy business, that he has stooped to dishonorable courses, and that his moral tone and dignity have suffered in the process,—these are the words of his conscience ringing in his ears, however tightly and ingeniously they be stuffed. Nor is he unaware that the temptation to “color” his testimony, is strong upon him, while he is the feeble to resist it for what he has gone through.

All things considered, then, it is not surprising that the professional reformer as a volunteer detective witness should “view unequally” and with distorted vision the facts with which he has to deal, and should magnify this and minimize that, so as to present these facts distortedly and unequally to

others. But the organizers of a Society-for-Setting-Others-Straight do not, as a rule, do their own detective work. They hire others to do it for them. They, themselves, have neither time, capacity, nor, for the most part, to their high credit be it said, the inclination voluntarily to take upon themselves the degrading task of dogging their neighbors' footsteps. So they organize their society, and hold meetings, and make speeches, and get themselves elected presidents, and vice-presidentesses, and international corresponding secretaries of the southwestern branch, and all that sort of thing, and have their names printed in the papers, besides.

And then they raise a fund. The fund is seldom large enough for the "work," which, indeed, grows by what it feeds on, and the new Society-for-Setting-Others-Straight, as a rule, soon joins the great army of regular "looters" of the public treasury. But this is not invariably the case. However, the fund being raised, the principal use of it is to hire "special agents," otherwise detectives, to do the work of the society. The collection of the evidence is the business of these detectives. The only testimony willingly given in prosecutions for vice falls from their lips. Their business and their testimony are certainly rightly viewed with disfavor and distrust by the average man. They are not selected from the law-abiding, conscientious, industrious mass of the people. A certain moral callousness is necessary for what they have to do. They are usually shrewd fellows, with a dislike for work, and a strong inclination for that lying-around-doing-nothing-in-particular, which is rather more characteristic of the average detective when he is "on duty" than when he is off, and which, it must be admitted, is incidental to his success. Moreover, these shrewd and lazy fellows understand well that their bread and butter, so nicely earned by lying around, depends on the satisfaction they give their employers—that is to say, on their ability to *find what they are sent to seek, and to convince judges and juries that they have found it.*

Average human nature would not keep a witness strictly impartial and strenuously accurate under such temptation as this. And the human nature of the private detective is below and not above the average, and the terror is stronger upon him than it is upon the average man at the prospect of having to cease lying around and go to sawing wood.

Prosecutions for vice, then, are weak in the character of their willing witnesses. How much weaker and how altogether ineffectual must they become when, as in almost all cases, the State, to make out its case completely, has to rely on the testimony of witnesses who are altogether unwilling either to appear or to testify — whose wrath is aroused by the very summons! In the case of crimes, where the injured party is reluctant to testify, it is the general rule that a *non pros* is entered. The wisdom of this policy may be questionable. But it often has its excuse in the fact that conviction is extremely difficult where the injury has been forgiven. How much more difficult must it be where the chief witness for the State has not been injured at all; where he himself participated more or less directly in the act, and had to be dragged into court, as it were, by the professional reformers; and where he testifies to each detail with the utmost unwillingness, so that often after he is dragged into court, the testimony has to be dragged out of him?

Let us illustrate the difference between a prosecution for crime and a prosecution for vice, using for the latter our old friend, the Sunday law, since we have shown that Blackstone is right in classifying "Sabbath-breaking" (waiving the question of what this may be) as an act of "vice and immorality." A enters the store of B on Saturday, and robs it. He is arrested as he is leaving with his plunder, by a policeman. B is grateful to the officer. No dragging is necessary to get B before the magistrate, the grand jury or the criminal court. His "personal equation" throughout, is at the service of the State. The only unwilling party in the case is A, and all the

dragging necessary is done to him. This is the case of a crime. On the other hand A enters the store of B on Sunday, and purchases a cravat. Unless A be the agent of a self-constituted "Society-for-Setting-Others-Straight," the arrest in such a case comes about as follows : The policeman may see the purchase made, through an open window ; but he is not likely to interfere. An agent of the Society-for-Setting-Others-Straight is lurking in the neighborhood, playing the spy on those who are doing him no harm. He tracks the purchaser home, and gets his name and address ; and in a short time the purchaser finds himself summoned to testify against the seller and to aid in the work of punishing a man who has not only done him no harm, but has actually done him an accommodation in selling him something which he wanted at the very time at which he happened to want it, and which perhaps he could not at that time have procured elsewhere without considerable inconvenience.

Here we appreciate at once the absence of the "personal equation." We see that the State must make out its case by the mouths of professional detectives whose standing with the busy-bodies who pay their salaries, depends upon the finding just what these last send them to seek ; or else at the mouths of unwilling and grudging witnesses whose testimony must be extorted from them as though on cross-examination ; whose whole interest, aim, and purpose is to defeat the side for which they are summoned, and who are almost as anxious for an acquittal as the prisoner himself. No lawyer who properly valued his reputation would cheerfully go into the trial of a civil case with the evidence of such witnesses as his sole reliance, and vital to his side.

But the prosecuting attorney who is compelled to go to trial of a case thus weak in the character of its witnesses, willing and unwilling, finds also in the weakness of its origin a strong temptation to him to be lukewarm and indifferent in his conduct of it. Like the policeman, he cannot fail to see in the existence and activity of the Society-for-Setting-Others-

Straight, a reflection upon him and his official conduct. "We have gone to the Grand Jury and are now here," says the Society, in effect, to him and to the public, "because you have neglected your duty in failing to proceed against these people." Such is, in effect, what the officers and special agents of the Society say to him in court in the presence of the public; and leading men of such a society are often explicit on this point in carefully prepared newspaper interviews. The prosecuting attorney, like the policeman, feels this keenly. Like the policeman, too, he feels that the reflection cast upon him is really unmerited. He, too, is pretty thoroughly convinced of the futility of such prosecutions, and therefore regards them as mere wasting of time and vain beating of the air,—a point of view from which no man sets out with reasonable prospect of success in an undertaking.

Very many State's attorneys, indeed, regard prosecutions for vice as worse than a mere waste of time—as positively demoralizing proceedings, doing far more harm in the exposure of their details than any number of convictions can do of good. They point to the undoubted fact that vicious stories of the imagination are among the surest and most deadly agencies of corruption. They admit that stories of crime, and prosecutions for crime, involve the same peril for the young and unsophisticated. But they insist that, just as we cannot live without prosecuting crime, so we cannot stop the publication of "sensational" narratives about crime and its detection. And they point to the fact that whatever indirect temptation to a criminal career may be held out in the "Dime Series" and others of that ilk, by the portrayal of its exciting and perilous incidents, yet in the end the villain gets his deserts, and so the spirit of these narratives is moral after all; whereas the vicious story is written expressly to make wickedness attractive and teach the folly of right doing.

And the opinion that prosecutions for vice are worse than futile, and even when successful do more harm than good, is by no means confined to policemen and State's attorneys. It

is held by nearly every thoughtful person whose position brings him into contact with vice in what may be called its endemic as distinguished from its sporadic form. Those who study social environments where vice is normal and open and involves no manner of ostracism, and where virtue is considered rather a "soppy" thing, if discovered,—and such environments were in Nineveh and shall be in every community till the end,—these students know, as well as the policeman and the State's attorney, that vice laughs at prosecutions, and recognizes them as valuable advertisements of its business.

These last observations lead us naturally to consider a more objectionable feature about prosecutions for vice than their inherent weakness, of which enough has now been said. It may be doubted if public policy justifies the frequent spectacle of the State's power baffled by the force of circumstances and vainly beating the air in a hopeless conflict with things altogether beyond its control. But the case becomes much stronger if we can show that the proceedings are not merely useless and ineffective from the weakness of their nature, but that they are inherently demoralizing—that they not only accomplish no good, but do actually result in evil. This evil is threefold—to the instigators and agents of the prosecution, to the prosecuted (morally, not financially evil to these last), and to the community at large.

It will not probably be disputed that the special agents of a Society-for-Setting-Others-Straight would be better employed, so far as they themselves are concerned, in almost any other work than that of the detective. Whatever the character of their business, judged by the end in contemplation, the manner of it involves, by the common consent, a severe strain on the manhood, integrity, and honor of its followers. If not necessarily demoralizing, it is a business that tends to demoralization. That the end in contemplation, however lofty, cannot be depended on to counteract the demoralizing influences of the business, is sufficiently attested by the oc-

casional convictions of "special agents" for blackmail. And no man who knows the almost pitiful readiness of vice of certain kinds to submit to "bleeding" from any quarter, can doubt that there are numerous instances of extortion practiced by these men, which never come to light. But the "special agent" is a hired servant, and, however devious his ways, doubtless secures by them a living for "somebody at home." This excuse, or apology, or what you will, is lacking for the volunteer detective, who, sometimes on his own behalf, sometimes as the present or prospective head of a Society-for-Setting-Others-Straight, goes "slumming" in order to appear in the role of an instigator of prosecutions for vice. The only professional reformer who is willing to do his own detective work is, strangely enough, the clerical professional reformer. And, without exception, so far as the writer is aware, he is connected with one or another of the sects that are dominated by the spirit of Brownism—is, in fact, a representative of the Brownist Church Militant.

The motives which impel the Brownist cleric to "go slumming" are probably of a mixed character. Dispassionate judgment will not exclude curiosity as a factor, though it may be a minor one. A young man piously reared, who entered the ministry too young to have become familiar with "the seamy side" of life, may not unnaturally welcome a call of "duty" to investigate matters of real social and human interest, concerning which he knows nothing except by hearsay. A morbid craving after newspaper notoriety—that peculiar and most embarrassing moral weakness of our age—is surely a prime incentive to clerical slumming. Let us admit the presence of a sincere desire to "do good" and a sincere conviction that it may be done by "slumming" and by telling tales of slumming to people who do not slum—the question is, does or does not this conviction argue a want of moral balance, only to be made the more pronounced by conduct based upon it? Let us see.

As the business of the State is with crime, so the business of the Church is with vice. To war against vice is the cleric's function. It is perfectly immaterial whether the vice is also crime or not, so far as his duty is concerned. Dishonesty is always a vice ; but many a man has cheated his creditors under the forms of law — that is, without committing any crime. Ingratitude is a vice. But it can never be made a crime ; and so on.

To war against vice is the cleric's function. But how, in what field, with what weapons?—*In the field of the soul, with the weapons of the Spirit.* No array of texts need be cited to prove that the Master's soldiers can win for him no other field, and use no other weapons with his sanction. The proposition is not disputed by anybody. But the extent to which it is ignored in practice by many who profess to believe in Him and to have his cause at heart, is startling to see.

And by none is it more completely ignored than by the slumming cleric. What is his object, at best, in slumming? Discovery? By no means. Ignorant as he may be of details—of which more hereafter—he knows that vices exist, and it is silly to pretend that he cannot adequately wield the sword of the Spirit placed in his hands against them without a personal knowledge of their manifestations. As well claim this in the case of dishonesty as in the case of any other vice, and seek preparation for the duty of instructing and persuading men “to be true and just in all their dealings” by frequenting the company of burglars, forgers, and sneak-thieves. No, the sword of the Spirit is not sharpened by slumming. The slumming clergyman, in fact, must be more or less than human if his sword be not tarnished and its edge dulled by the filth and miasm of the moral atmosphere through which the wearer flounders in his slumming hours.

No, the slumming cleric is not trying to discover vice. There can be no discovery of that which everybody knows

exists, and has always existed. What he is after is not to discover vice, but to *locate* it. This he has persuaded himself that it is his duty as a clergymen to do — crediting him, as before, with the highest motive as the conclusive one. But why does he conceive it to be his duty to locate vice? If he keeps his knowledge to himself, it can hurt or help nobody but himself. If he makes a public disclosure of it, he must admit that he is advertising vice, as well as serving as a sort of directory to places where it may be indulged in. If he privately communicates his slumming experiences to the State's officers, any action on their part must be followed by the same advertising, and the slumming cleric, sooner or later, must do his part as a witness to spread abroad the offensive story.

Now, this action is just what the Brownist cleric that goes slumming boasts of as his desire. He wants to provoke and set in motion the action of the State. He wants to "lead" a "movement." He says, "This sword of the Master's Spirit is of no use in my hands. Give me a policeman's club, that I may pound vice out of the people, and nippers to fasten on their wrists, that I may drag them into the straight and narrow way of righteousness." But all this is the union of Church and State, in the very teeth of the Master's teaching, and the speaker is demoralized, and his slumming is demoralizing to him.

For the Master's law is the law of morals, and nothing but demoralization can come of such a total misconception of the functions and duty of his ministers, as the inclusion therein of active intermeddling in State administration. When the slumming cleric preaches his "disclosures," he chooses some such text as "Cry aloud and spare not," a command addressed under the old dispensation to the prophet Isaiah. Isaiah 58 : 1.¹

¹ These words were actually made the basis of a series of sensational sermons and called "A Command to Us;" *i. e.*, to Christian ministers, by a Baltimore victim of Parkhurstism, who was overcome by the malady about the time of the present writing.

He forgets that he is ostensibly the representative of One concerning whom it was written by that same prophet, "*He shall not cry, nor lift up, nor cause his voice to be heard in the street.*" Isaiah 42 : 2. He forgets that while the function of these old prophets was essentially political, the functions of those who preach the Master of a kingdom "not of this world" are exclusively spiritual. It was the will that the prophets should direct the civil contention against disintegrating social forces; it is the will that Christian clergymen shall put on public men the spiritual armor of clean and invulnerable consciences, and leave them, thus arrayed, to battle with temptation.

In nothing was that "sweet reasonableness" of the Master more strikingly manifested than in his insistence on the absolute separation of Church and State, the refraining of his ministers from active intermeddling *as such* in civil administration. This great principle, indeed, bears the copyright stamp of Christianity as taught by its Founder. All the great pagan thinkers of antiquity regarded some sort of a union between Church and State as essential to the preservation of social order. It was a striking experience of the writer's, some time since, to hear this old pagan idea gravely urged by Christian clergymen before the House Committee on the Chicago Exposition. The question was: Shall the Exposition be open on Sunday? One Christian preacher after another protested in all seriousness that Christianity could not live without "recognition" by government; and that the government would fall to pieces unless it recognized Christianity!

This was the exact view that the pagan philosopher took of the matter. If a good-natured one of these had just been made ruler over this country, and those preachers talked that way before him, he would not even have embarrassed them and set them flying at each others' throats by demanding that they should first settle among themselves what they meant by

Christianity, before, they called upon him, as the "government" to "recognize" it. The Emperor Julian did this and "egged on" the disputants till there was a "free fight" all around, and then ordered his officers to clear the room. But Julian was ill-natured. Our good-natured pagan philosopher would say to these Christian preachers, "Recognize your religion? Religion of most of the people, ain't it? That settles it. Wise statesmanship requires that the religion of the people shall be recognized by the State. Will arrange to subsidize you all out of the tax fund soon. Anything else you would like in the way of recognition, just mention it to me. And, by the way, one recognition deserves another. Of course, you will tell the people that I am 'the government' by the grace of God, and that all they have to do is to be good and discharge their duty as my subjects, in that state of life unto which it hath pleased God to call them. And keep it always before them that if they don't behave themselves and do just as they are bid, I will hang them here, and you will see to it that they are properly roasted hereafter."

But the "sweet reasonableness" of the Master in this matter admitted of no such bargain as this. The religion He taught could not, from its very nature, receive any benefit from State recognition, or be hampered by the lack thereof. The sphere of its operation lies in a domain where the State's influence is powerless for good or evil, where its force cannot be exercised, where its writs do not run. Plate-glass is not so surely proof against the electric current as the sphere of the Master's religion is proof against any force which the State's machinery can set in operation. That sphere is the mind and heart of man. Every one should read that interesting book "*Ecce Homo*," in order to appreciate the striking peculiarity which distinguishes the Master from all other great moral teachers of the race, namely, his comparative indifference to conduct except as *indicia* of motives, his refusal to accept actions of any sort as meritorious in themselves,

and his "imperious insistence" on his right to dominion over our very thoughts, and to set up his kingdom "within you." The Brownist clergymen who appeared before the congressional committee on the Chicago Fair, of course defied the Master's wisdom and his expressed will when they asked for Federal recognition of his religion. The Brownist clergyman who, as the result of his slumming intermeddles as a clergyman in the work of civil administration, is none the less guilty of the same defiance.

The Master was all-wise as well as all-good. If he proclaimed the absolute separation of His religion from the State, it was because that separation was absolutely necessary in order that His religion might do the work for the sake of which he revealed it to men. We have seen that His religion was intended to operate within a domain where the State could never render it the slightest assistance. But no one grasped as did the Master, the great and vital truth that it was within the power of the State to exclude his religion altogether from its proper sphere; to emasculate it, devitalize it, paralyze it, so that it could not enter the minds and hearts of men, and dominate them.

And no one has ever grasped as did the Master the equally great and vital truth, that it was not at all the *hostility* but altogether the *friendship*—the recognition—*of the State*, which threatened the life and work of his religion. History has vindicated his position. The rack and the stake have never availed to check the steady conquest by the Master's teaching, of the minds and hearts of men. But once the Church is established by law, and just so far as, directly or indirectly, she is "recognized" by the State, her energies are gone, she lies helpless at the door of men's hearts and minds which she cannot enter, and all they that pass by mock at her humiliation. It is deserved. She has cast away the sword of the Master's Spirit, with which he armed her, and taken

instead the policeman's club which never yet opened the door of the mind and heart of man.

It is of course, an all-sufficient objection to any recognition of the Master's religion by the State, that it is contrary to his commands, and destructive of his religion. But its effects on the State are quite as baleful as are its effects on the Church. If it does not destroy the State's power, it turns it in directions the most undesirable, perverts legislation, makes government an instrument of evil instead of a benefit to men. Experience shows that ecclesiasticism never intermeddles with civil administration without serious injury to the welfare of the community. And what is true of such intermeddling by an organized Church or body of ecclesiastics, is none the less true when the intermeddling is practiced by individual clerics as such.

Richelieu may be cited to the contrary. But Richelieu was one of those exceptions that prove the rule; that is to say, an exception viewed superficially, which on closer scrutiny turns out to be no exception at all. For Richelieu, though a cleric, did not intermeddle with civil administration as such. He was at once a cardinal and a statesman. But he was a great statesman, and invaluable to his country just by reason of his ability, in the exercise of his splendid powers of statesmanship, to ignore his clerical character altogether, and wherever an "irrepressible conflict" arose, to subordinate the interests of his church to the interests of his country.

Our modern clergy are not Richelieus. And of them collectively and individually the proposition stands that their intermeddling as such with the civil administration is pregnant of confusion and disaster. Our Brownist clerics who go "slumming," and seek to effect a union of Church and State through the instrumentality of Societies-for-Setting Others-Straight, proceed on the assumption that their intermeddling with the civil administration must result in good

because they are "about the Master's business" when they engage in such intermeddling. We have seen that they are not about his business at such times, but are taking on themselves the particular business of the Hebrew prophets, a political business of the kind that the Master expressly declared to be none of his.

If they were really imbued with the sweet reasonableness of the Master whom they profess to serve, they would recognize the wisdom of his inhibition in this regard as applied to themselves individually, as well as in its application to organized churches. They would see that it is in vain for them to expect his guidance in a work undertaken in his name, which he has expressly said shall not be undertaken in his name. And a very little reflection would convince them, that without such guidance, without superhuman and miraculous direction at every step, their intermeddling with the civil administration must inevitably prove disastrous to the State.

This certainly results from the nature of the conditions with which civil administration has to deal, and from the mental attitude of the intermeddlers with reference thereto. The conditions are complicated in the extreme; interests equally worthy of subservience both on equitable and political grounds are frequently irreconcilable; compromises and *modi vivendi* have to be availed of at every turn, in the making, as in the enforcement of the laws; and wise administration must forever *feel its way* along to its true end, the greatest good of the greatest number.

The clerical intermeddler in such business is almost sure to make mischief by reason of his ignorance. The most fanatical Brownist cleric would not assume that because he *is* a cleric, therefore he knows more about diseases of the body and the management of hospitals than those who have devoted their lives to the study and practical investigation of these matters. But the theory of civil administration has en-

gaged the attention of the wise and prudent through all the ages, and its capacity for improvement by thought and experiment is admittedly not yet exhausted, though the general preservation of good order and the general security of lives and property in civilized countries are the best evidence that the means are not wholly unadapted to the ends. And while investigation and right reason and experience will doubtless lead to the adoption of more effective means from time to time, it is clear that there is little likelihood of any valuable suggestion herein coming from a person who is absolutely ignorant of the subject, and has neither made a study of the writings of great publicists nor had the benefit of a practical acquaintance with the conditions which must be dealt with.

And this is precisely the case with the clerical intermeddler in civil administration. Hence, as there has never been the smallest light shed upon the subject from a clerical source in the past, so there is not the slightest prospect that we shall ever receive any enlightenment upon it from a clerical source in the future. The education and the experience of a cleric qualify him as well to practice medicine and surgery as to give advice on a question of civil administration. But in the first case, as his ignorance alone would be dangerous, there would always be a possibility, however remote, that he might do the right thing in some emergency. There is a story that when the would-be-assassin, Paine, cut the face of Mr. Staunton with his hatchet, as the minister lay ill in bed, he made a gash which the surgeons had feared to make, and thereby relieved the patient of an accumulation of pus which was endangering his life. So the Brownist cleric in dealing with the sick, as he would have no particular prejudice in favor of one course of treatment over another and would simply be blundering blindly, would have at least a chance of sometimes blundering on the proper procedure. Nor would there be wanting, to save him from hasty conclusions, and rash action, a wholesome consciousness of his

own ignorance and mistrust of his own capacity to deal with the conditions before him.

But, now, take our cleric from the hospital and put him into the civil administration. Here it is not merely a thousand to one that he will go wrong. It is impossible that he should go right. The danger, of course, is many times greater from his ignorance, than in the first case, because now he is not only unconscious of his ignorance, but actually believes that he is acting under the inspiration of special wisdom "from on high!" Hence he will now blunder not blindly, but wildly, recklessly, without hesitation, without anxiety, without remorse. But that he must blunder wildly and recklessly is no more certain than that he must always blunder. For now he blunders blindly no longer. He blunders with his eyes wide open and his vision all distorted. He no longer feels his way in the dark without prejudice for one route over another. He follows a light which is an *ignis fatuus* that is sure to lead him and those who go with him into a hopeless morass. And this *ignis fatuus* is the union of Church and State so emphatically repudiated by the Master; and, what is more, the union of the State and the particular Church which the clerical intermeddler happens to prefer to the other churches.

In his profound and suggestive work on "The Study of Sociology," Mr. Herbert Spencer shows how necessary it is for any right and profitable thinking on public topics that the thinker should be altogether free from bias or prejudice of any kind. He develops here and elsewhere the correct conception of human government or civil administration as a machine. To properly determine the purposes to which the proposed machinery of government ought to be adapted, and then to properly construct and manage the machinery, requires the scientific cast of mind, that is to say, a mind which approaches the conditions to be dealt with, free from preconceptions, recalling impartially the experiences of the past,

ready at any moment to receive suggestions from the phenomena of the present. One of the most valuable chapters on "The Study of Sociology" is one dealing with "The Theological Bias," under the influence whereof the clerical intermeddler always approaches a question of civil administration, and which as Mr Spencer shows, is utterly incompatible with the scientific state of mind and therefore renders it unthinkable that his intermeddling should be otherwise than hurtful.

This theological bias causes the clerical intermeddler to take false and unscientific views of the purposes for which the governmental machinery should be designed, and also of the principles on which it should be constructed and managed. Of the purposes for which it should be designed, because he would have it regulate human conduct with the view to men's happiness in the next world, whereas its sole proper concern is to regulate that conduct in the way which will the least interfere with the attainment of the greatest possible happiness by the greatest possible number of people in this world. Because he would have it applied to the greatest good of his own particular religious denomination, and its members, and its application to the greatest good of any one portion of the community is inconsistent with that purpose of the greatest good to the greatest number which is the true purpose of governmental machinery. Because he would have it "run" upon the assumption that the religion of his denomination is superior as a religion to all others, and to adopt such an assumption as this is to recognize and prefer one religion to another, to establish a union of Church and State, all of which is inconsistent with the right purpose of civil government.

But the theological bias is no less fatal to right and serviceable thinking about the principles upon which the machinery of government is based, than it is to right and profitable thinking about the purposes for which it should be designed, and with a view to which it should be managed.

The government is a machine. Like all other machines, to be a good machine, it must be constructed on scientific principles. These principles require a reference to facts, not theories. One of the most important things to be considered in the construction of any machine, is the materials of which it must be made, and the materials upon which it is to operate. Now scientific principles require that in the construction of our governmental machinery, we shall have regard to the *facts* of the materials of both kinds, and not to any *theories* concerning them.

The scientific builder or alterer of a machine, studies these materials as they are, and gives no thought to the question of what they ought to be. He does not say to himself: "Here is material out of which I am to make a saw; the metal is very soft; but it *ought to be hard*, and so I will make the saw in such a manner that it will be a very good saw indeed, if the metal ever becomes hard." He does not say: "Here are certain logs which I am to make a saw cut; the wood is very hard; but it ought to be soft; so I will make such a saw as will cut it easily enough if the wood should ever become soft." But the effect of the theological bias is to produce just this unscientific attitude of mind toward the construction and alteration of the machinery of government. The material out of which the machinery must be constructed, and that on which it must operate, is human nature. It is true that the business of the clergymen is with human nature. But the business of the geologist and the analytical chemist may be alike with strata and ores and yet the training and profession of one would not qualify him to deal scientifically with the problems that lie within the domain of the other.

It is easy enough to see how the training and profession of a clergyman not only do not tend to qualify him, but inevitably incapacitate him from taking a right view of the principles upon which the governmental machinery should be

constructed. That training and profession necessarily and rightly commit him to a view of human nature framed with reference to what it ought to be, rather than to what it is. Necessarily and rightly, because his business is to teach men what they ought to do, and to induce them by sweet and soft persuasion to do it. But the business of the government is not to teach men what they ought to do, but what they *must* do, or be punished for not doing.

Here we have another illustration of the principle that law or the government has nothing to do with immorality, but deals with incivility alone. What men ought to do, is the same on a small island where there is no government at all, as it is in a great republic with the most complex system of several governments,—federal, State, municipal, what not—that can be imagined. The work of the clergyman, then, is, in a sense, above that of the government; it would exist, though no government existed; it would remain, though all government should perish.

But the clergyman's work is done when persuasion and exhortation have failed. The clergyman cannot judge, because the Master has declared that though a man shall refuse to receive his word, yet he judges not that man. The clergyman cannot punish because the Master has said, "Put up again thy sword into his place; for all they that take the sword shall perish with the sword." And here the government steps in. It has nothing to do with persuasion or exhortation. It wastes no time in trying to convince the citizen that he ought to do this, or ought not to do that. It is perfectly indifferent to his views upon the subject. It simply commands him to do or refrain, as the case may be, and judges and punishes him in its own way for disobedience. The spheres of clerical and governmental action being thus entirely distinct, the relation of the two to the material of human nature is also distinct, and the clergyman is not merely *non*-qualified, but *dis*qualified, so far as government is concerned, by reason of

his calling and profession, from taking a scientific view of the material out of which government must be constructed, and on which it must operate.

This fatal result of the theological bias, as affecting the clerical notion of the construction and management of government is of frequent manifestation. The clerical intermeddler in civil administration would have "special agents" endowed with inquisitorial powers, to dog the footsteps and enter at will the houses of citizens. And he is deaf to the suggestion that the material of which "special agents" are made is human nature, and that inquisitorial powers in such material bring forth blackmail. He answers rightly enough, they *ought not* to bring forth blackmail, and feels satisfied that the legislation he urges, since it *ought* to result in good, is wise, though it actually results in evil.

Again; this intermeddler seeing that men "need watching and guiding from the cradle to the grave,"— as, indeed, they do, and we know who has promised to watch and guide them, if they will,— would fain entrust the government with this function. Nobody will dispute with him that this would be a good thing to do, if only we had the material to do it with. A perfect government might safely and advantageously be entrusted with all the destinies of the race, with powers unlimited and most minute. But, unfortunately, the only material available for us out of which to construct a government is human nature, and human nature is not perfect. If we may return to the metaphor of the log, we may say that here is a log called government, under which we must crawl for shelter from the storms of disorder and anarchy. But let us not delude ourselves with the idea that the wood is soft and plastic, that it will lie lightly upon us, and adapt itself, without effort on our part, to our convenience and comfort. Nor let us be tempted for the sake of a little more shelter or convenience to remove one single prop

which helps to keep it from falling and crushing the life out of us.

And this is just what clerical intermeddling in civil administration, by organization and individuals, has in all ages done for mankind. It has crushed them at every point. Falsely assuming that this sheltering mass called government is soft and plastic and light of weight, its constant endeavor is to bring it down on every joint of the citizen, so that his own will shall not effect one single movement of his body, and his liberty and individuality shall be annihilated forever.

The clerical intermeddler, then, cannot be otherwise than an ill-suggester concerning the construction of governmental machinery, because he cannot but take an unscientific view of the material used in its construction, considered with relation to the machinery. But the machinery is to operate on other material of the same sort which is not used in its construction. And his view of the relation between this material and the governmental machinery, is also fatally unscientific and is rendered so by reason of his training and profession. For these lead him, more or less unconsciously, yet inevitably, to confuse the power of the government with the Power of the Universe, and to impute to the civil machinery the omnipotence of the Deity.

He is never free from the influence of the Hebrew theocracy, can never wholly rid himself of the notion that "Thus saith the Lord" is, somehow or other, the real meaning of the words "Be it enacted," with which our modern statutes begin. And as the only civil government which he has ever really studied, was divinely inspired and guided, so the spiritual government which he serves is absolute. The law he deals with is no sooner spoken than it is done. More or less unconsciously, our clerical intermeddler transfers to the civil machinery the idea of absolute power as well as of divine inspiration. If he concludes that it would be a

good thing for men to do this or that, he at once clamors for a law requiring them to do this or that. In vain is it represented to him that public policy forbids the passage of any law which cannot be reasonably enforced; that no law can be reasonably enforced which is not sustained by an overwhelming public opinion in its favor; and that, however desirable it may seem to him that men should do this or that, yet the public opinion of the community is overwhelmingly against doing this or that. Divine will he sees in the enactment of the law, divine power he relies on for its enforcement. He will have this governmental machinery set about work which every publicist of scientific mind will prove to him through reason and history it can never by any possibility accomplish.

Clerical intermeddling with civil administration has been particularly conspicuous of late in this country. And the result which the considerations just adduced would lead us to anticipate has been fully realized in practice. We have on our statute books a large and constantly increasing number of laws, saturated with the spirit of paternalism, dealing with things altogether beyond the domain and reach of the civil power; violently opposed to the overwhelming opinion of the communities; from their very nature unenforceable; and by their manifest and often grotesque futility bringing scorn upon all law and begetting a natural and wholesome contempt for the inspirers and enactors of such absurd and oppressive regulations.

The clerical intermeddler in civil affairs, then, like the Sunday of which he is the originator and conservator, so far as his influence is manifested in actual legislation, or official activity, is an unmitigated evil, and a demoralizer altogether.

THE SABBATH QUESTION

IN THE
DOMINION PARLIAMENT.

WEIGHTY SPEECHES BY HON. G. AMYOT IN THE HOUSE OF
COMMONS AGAINST "AN ACT TO SECURE THE BETTER
OBSERVANCE OF THE LORD'S DAY COMMONLY CALLED
SUNDAY."

¹THE honorable gentleman (Mr. Charlton, mover of the bill) says: "The State should protect the rights of conscience." This is a very important principle. I want to know where the honorable gentleman wants to apply it. It is a very true principle applied generally, and I wish it were printed in the honorable gentleman's heart as well as in the hearts of all the people of the Dominion,—the state should protect the rights of conscience. . . . But we are not alone in this Dominion. There are not only Protestants and Catholics in this country; there are some other subjects of Her Majesty; the honorable gentleman knows it. There are some Jews. In England, in France, in Germany, in all the civilized nations of the world, they are a respected set of individuals. They have consciences, too; and though not believing in their faith, I am not ashamed to show their way of thinking. They rely upon the Bible, upon the Old Testament, and what do they find there?

¹ Delivered in the House of Commons, Wednesday, 30th May, 1894, by Hon. G. Amyot, Member from Bellechasse, P. Q.; and printed in the unrevised "Hansard" No. 49, and in the revised edition, columns 3503-3507.

They find the words of God himself. The honorable mover of the bill himself believes that what I will read there is the word of God. Take Genesis—some honorable gentlemen laugh, but perhaps it will do them good to hear again what they learned by heart when young. Take paragraph two, which reads :—

“And God blessed the seventh day and sanctified it ; because that in it he had rested from all his work which God created and made.”¹

There it is the seventh day which God made holy ; and then, if you look to Exodus, paragraph twenty—I am told that in English we should say verses—verse 20, subsection 8. I may be more correct, perhaps, in saying chapter 20 and verses 8, 9, 10, 11 :—

“Remember the Sabbath day, to keep it holy. Six days shalt thou labor and do all thy work : but the seventh day is the Sabbath of the Lord thy God : in it thou shalt not do any work, thou, nor thy son, nor thy daughter, thy manservant, nor thy maidservant, nor thy cattle, nor thy stranger that is within thy gates : for in six days the Lord made heaven and earth, the sea, and all that in them is, and rested the seventh day : wherefore the Lord blessed the Sabbath day, and hallowed it.”

The Jews take those texts among others—there are hundreds of them—and say that the law that God gave to his creatures is to keep holy the seventh day. And they ask by what authority we change the law of God and celebrate the eighth day instead of the seventh. This is a very important point, and I am sure that the honorable mover of the bill (Mr. Charlton) is ready to give his authority.

Now, there is another sect or religion which says : We do not rely upon the Old Testament, but upon the New Testament, and according to the New Testament it is ordered that we should go on celebrating the seventh day and not the eighth day. These people rely upon the New Testament, and have even suffered death to prove their belief. I hold in my hand a book entitled “The Faiths of the People,” by

¹ Gen. 2 : 2, 3.

Malloy, and I will draw the attention of the honorable gentleman to page 209 at the end of the chapter. He will see there the reasons these people give for going on celebrating the seventh day. I shall not trespass upon the time of the House by giving quotations, but I ask the honorable gentleman to show us one word in the New Testament where the Son of God took it upon himself to change the day ordered by his Father to be kept holy. The Seventh-day Baptists or Adventists, who celebrate the seventh day, say to the mover of this bill: To whom do you submit when you keep holy the eighth day? And they accuse him of submitting to the Catholic Church. They say to him: In celebrating the eighth day of the week, you admit the authority of the Catholic Church and its right to impose discipline. You admit that the Catholic Church has received from God the power to dictate to the people its law as to the doctrine to be followed. That is the charge which the Seventh-day Adventists make against the honorable gentleman. The honorable gentleman knows, and he will find it in his own authorities, that Sunday is of apostolic tradition. In the first centuries, as shown in the book I have here, in many parts of Christendom, Sabbath was celebrated, but the Catholic Church changed the day, pretending that it had the right so to change it, pretending that it [the church] was established by the Son of God and intrusted with all powers. And it is in virtue of that belief that the church changed the day, and that is why the Seventh-day Adventists say to the honorable mover of the bill: You believe, like us, in the New Testament, why do you give up your belief in the Sabbath celebration? Why do you submit to the Romish Church? Why do you admit the traditions of the apostles? If you admit one, you admit them all. You admit the absolution given by the priest, you admit the sacraments of that church. But they say: We believe in the word of God the Father in the Old Testament, and in the word of God the Son in the New

Testament, and we stand by that, and will not submit to the dictation of any other church, which is only assuming powers it has not received.

As for us Catholics, Mr. Speaker, we shall celebrate our Sundays as we please, provided we do not interfere with your civil rights, and if we do, go to the provinces and you will receive protection. When we joined Confederation, we joined it as a commercial partnership, and not as a salvation army. We do not believe in this Parliament turning itself into a salvation army, and with drums and fifes trying to force us into heaven. The honorable mover of this bill says he wishes to protect the rights of conscience. Is he doing that when he wants to impose upon the Jews the obligation of keeping the eighth day instead of the seventh? Does he protect the rights of conscience when he seeks to impose upon the Jews to keep the first day of the week instead of the seventh? Does he protect the rights of conscience when he wants to compel the Seventh-day Adventists to celebrate the first day of the creation instead of the seventh? Does he protect the rights of conscience when he seeks to compel a great number of his fellow-citizens to disobey the word of God and to obey the words of a church of which they do not approve? The honorable gentleman must remember that in proposing his bill he acts not only contrary to the constitution which I read a moment ago, but also contrary to the general understanding which prevails in this country and which was summed up in a proclamation by Her Majesty the Queen in 1858, which is as follows :—

“Firmly relying ourselves on the truth of Christianity, and acknowledging with gratitude the solace of religion, we disclaim alike the right and the desire to impose our convictions on any of our subjects. We declare it to be our royal will and pleasure that none be in anywise favored, none molested or disquieted by reason of their religious faith or observance, but that they shall alike enjoy the equal and impartial protection of the law; and we do strictly charge and enjoin all those who may be in authority un-

der us that they abstain from all interference with the religious belief or worship of any of our subjects, on pain of our highest displeasure."

These are the words not only of the Queen, but of the Parliament of Great Britain. This is the rule which should be recognized in this country. We should not interfere with the religious belief of our neighbors. Everybody should enjoy complete liberty, provided that liberty does not interfere with the liberty and civil rights of others. But the honorable gentleman wants to force those who are not of the same belief with himself to observe as the Sabbath some other day than that which they believe to be the Sabbath, and even to force those who, like himself, desire to observe Sunday, to observe it in the way he believes in, and not in the way they believe in themselves. That is not protection of civil rights; it is interference with civil rights. Mr. Speaker, I do not wish to take up too much of the time of this House, but I have given briefly the reasons why I oppose this bill: First, because the bill is unconstitutional;¹ secondly, because it is useless if it were constitutional, because the provinces take charge of these matters; and thirdly, because the bill is an undue interference with the belief of others.

² By this bill we claim jurisdiction in religious matters. I have objected to that already, but being in the minority, I can do nothing but submit for the moment. In the second place, by this bill we assert that Sunday is the Lord's day. I quoted the Old and the New Testament against the honor-

¹ Mr. Amyot contended in the first part of his speech that the proposed legislation was unconstitutional because the British North American Act, clause 92, subsection 13, says:—

"Property and *civil rights* in the provinces will be the exclusive right of the Provincial Legislature."

Since the honorable mover of the bill had declared in a speech at the introduction of the bill that the measure was "designed to secure for the people of this country their *civil rights*," Mr. Amyot argued that therefore, the Dominion Parliament was forbidden by its constitution to legislate concerning the matter.

² Delivered in the House of Commons, 4th of June, 1894, by the Hon. G. Amyot; published in the unrevised "Hansard," No. 52, and in the revised edition, columns 3640 and 3641.

able gentleman's contention. Will he allow this opportunity of answering the challenge to pass — he who is the champion in this House, the athlete, fighting in favor of a principle? Will it be said all over the Dominion and the world, that a member of the Legislature in this House could not find in the Bible any text to authorize his assertion that Sunday, or the first day of the week, is the day chosen by our Lord for a day of rest? It is all very well for the honorable gentleman to remain silent, but he thus gives a victory to his adversaries. The Seventh-day Adventists will cast up at him, wherever he may be, that he was not able to defend himself against one who is not a member of his religion. I have proved by the Old Testament that the Sabbath is on Saturday, and not on Sunday, that God did not rest before his work was done, but after it was done, and I have challenged him to find any passage in the New Testament where the Son of God gave orders to celebrate the first day of the week instead of the one chosen by his Father. I challenge the honorable gentleman, in the name of the Seventh-day Adventists and of the Jews, to reply. Is he impotent? It is all very well for the honorable gentleman to laugh, but there is the weak point, and if he is not able to answer, it must be said that the champion of this House, advocating the keeping of the Lord's Day, could not furnish any good ground for his advocacy.

As I have said, by this bill we are assuming to have jurisdiction in religious matters. I contend that it is the provinces, and not the Parliament, which have such jurisdiction. In the second place, while the honorable gentleman asserts that the work on the Lord's Day is against the law, by this amendment,¹ to which he consents, he says: "The law of God is all very well, but we will not follow it whenever we think it is not in our interest to do so. God said: 'You

¹ No canal belonging to the government of Canada shall be operated for traffic on Sunday, except between the hours of midnight on Saturday, and six o'clock in the morning of Sunday, and from and after the hour of nine o'clock at night on Sunday.

must observe the whole of Sunday.' That is all right, but we will cut the day short, and take from the Sunday the amount of time required for our business; and the Governor in council¹ will have the power, four weeks in advance, to say that three weeks hence there will be such a press of business that we will have to disobey the law of God and let prevail the law of man." For my part, I am against all this legislation. I believe it is not our duty here to occupy ourselves with religious legislation. That has been left to each individual. Each individual has the right to worship his God as he thinks proper, provided he does not interfere with the liberty of any one else.

¹ In the case of urgent necessity arising from the pressure of business caused by an interruption of traffic, or by the approach of the close of navigation, the foregoing provision may, from time to time, be suspended or varied by order of the Governor in council; but such order in council shall only continue in force for four weeks at most, from the making thereof, and may be made applicable to any one or more of the canals.

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WHAT DO THESE THINGS MEAN?

SINCE Easter Sunday, 1894, the attention of the people of the United States has been stirred, watching the armies of the "Industrials," the strikers and their consequent violence, and the calling out of armed troops because of the troubles in a connected line of States reaching from the Pacific to the Atlantic,—California, Oregon, Washington, Idaho, Montana, Wyoming, Colorado, Kansas, Iowa, Illinois, Indiana, Ohio, and Pennsylvania. Seeing these things carried on so continuously, every man is asking his neighbor, "What does this mean?" "What is to be the end of this matter?"

These things are not meaningless. They are full of meaning in many more senses than one, but there is one meaning that they have above all others. And, seeing these things that everybody sees, let us inquire at the source of all truth, what they really do mean; for if the word of God has spoken on these things and told us anything as to what they mean, then we may be certain of that meaning, whatever other meaning may be in it all. And the Scriptures have spoken in more than one place, describing the condition of things which is now before the eyes of all people, not only of the United States, but of all the world.

Turning first to James, fifth chapter, there is the description of a time, and a condition of affairs, in which the rich are afraid of what is coming, and hold together their treasure in heaps in which the gold and silver is cankered; while on the other hand, there is a cry of the laborers against the rich, and of real distress, indeed, because their wages are kept back; and while these are in distress and are crying out because of it, these same rich ones are nourishing their hearts and living in pleasure and wantonness.

Now any one can see plainly enough that this exactly describes the situation as it is all over the United States to-day, and every one knows that this situation has been brought about by precisely the methods here described. There is certainly no room for any difference of opinion in this. The strife between the laborers and the rich, between "capital and labor," has been brought on by the insatiable desire of those who are already rich, to gather together all that was possible. Men whose income has been a million a year, when there was any sign that that income might be lessened a little, would cut down the wages of the laboring men a few cents more or less all around, while in most cases these wages were already so low that they would no more than supply the necessities of life. Now it is hardly too much to suppose that a man with an income of a million could subsist on a half or three-quarters of a million a year, or such a part of a year as might tide over a period of business depression, thus allowing the balance of the million income to remain in payment of the wages of laborers. If all the wealthy men of the country had done this from the beginning, there would to-day be no more of a contest between capital and

labor, no more of a cry of the laborers against the rich, than there would be a cry of the earth against the rain.

For more than a year there has been all over this land a continuous cry of hard times caused by the scarcity of money, while, as a matter of fact, all this time there has been more money in this country than ever before. In the summer of 1893 when so many banks were closed, and when there was the greatest "scarcity of money," there were hundreds of millions of dollars simply on deposit in the banks of New York City alone, to say nothing of the other great cities of the country. The trouble is not that money is scarce in itself, but what there is, is hoarded, and it is this hoarding of the money that makes the scarcity.

And being so hoarded, it is cankering. In the month of May, 1894, some workingmen in a money vault, employed in recounting the money there, were in danger of being drowned in a flood of silver of which the canker had eaten up the strong sacks in which it was stored. Money that can have a chance to circulate will never canker; but to-day, although there is so much money, it is hoarded and held so closely together it can only canker. And God's word says that the cankering of it will be a witness against those who have so hoarded it, and held it back from circulation while the cries of distress are heard throughout the land. And those who have it so hoarded, even as this word also says, are living in pleasure and even wantonness. For when a woman will give a grand reception, costing hundreds of dollars, *in honor of a dog*,¹ while almost within hearing from her door are the cries of hungry people, certainly such a course is fitly described as

¹ This was actually done in the winter of 1893-4, in New York City.

"wanton." This may be an extreme case; but, admitting that it is, it is only an extreme case in a long series of like though perhaps not identical wantonness on the part of the over rich.

And yet it is said that "capital is shy," and will not venture forth when there is so much disturbance and such an unsettled state of public affairs generally. But if this capital would only venture forth in legitimate investments, instead of venturing so much in selfish pleasure, and such wantonness as giving grand receptions in honor of dogs, there would be no such unsettled condition of affairs as would cause capital to be afraid to venture in legitimate and beneficial enterprises. This is not however in any way to sanction or excuse the violence that so largely attends the laborers' side of the controversy, any more than it is to sanction or excuse the wantonness of the rich.

However, we are not discussing the question of capital and labor or their relations or antagonisms, we are simply inquiring of the Scriptures, What is the meaning of the present condition and course of things? And every one knows that the foregoing statements exactly describe the situation as it is. Well then, this being the situation as described in this scripture, what does the scripture say as to the time when this shall be? This same scripture answers plainly that this is to be in the "last days." And everybody sees now the very things that are set forth in this scripture. Then every person has before his eyes, and held irresistibly upon his attention, the positive proofs that we are in the last days.

Further, the Scripture has spoken of the rich and of the poor; of the hoarding of wealth and the keeping

back of the wages ; of the fear of the rich and the cries of the laborers — having spoken of these two classes, it now speaks of a third, or rather *to* a third, thus, “ Be patient therefore, *brethren*.” These are the Lord’s people who are now spoken to, for he said, “ Whosoever shall do the will of my Father which is in heaven, the same is my brother, and sister, and mother.” Matt. 12:56. So in the times described in the previous verses, in the last days, the Lord gives a word of counsel to his own people, and he gives this counsel *because* of the times that are here described ; so he says, “ Be patient, *therefore*, brethren.” And what further?— “ Be patient, therefore, brethren, *unto the coming of the Lord*.” Then the great meaning, above all other meanings, which all these things bear to the people of the world to-day is that the Lord is coming. These are signs, evidences, clear and plain, of the coming of the Lord, that are being held before the eyes and upon the attention of all the people, so that it is impossible that they should not see them. Whether the people will believe that these are signs of his coming, or not, is for the people themselves to decide. The Lord has fixed upon these things in his word, and says that that is what they are. And those who would be the brethren and the people of the Lord, must see in all these things that meaning which the Lord says is there ; namely, that the Lord is coming.

The scripture continues : “ Behold the husbandman waiteth for the precious fruit of the earth, and hath long patience for it until he receive the early and the latter rain.” As certainly as the sowing of the seed by the farmer means a certain result, and the farmer certainly expects that result, so certainly these things which are

described in this chapter, and which all the people now see, mean a certain result, and mean that the people seeing these things can as certainly expect that result as the farmer may expect the result from his sowing. Then, just as the farmer when he has planted his grain waiteth patiently for the harvest, so the Lord would have his people wait patiently for that harvest, which is to be the end of this sowing, and "the harvest is the end of the world." Matt. 13:39.

Consequently the scripture continues to counsel the people of God, "Be ye also patient; stablish your hearts: for the coming of the Lord draweth nigh. Grudge not one against another, brethren, lest ye be condemned: behold, the Judge standeth before the door." Then the coming of the Lord is so near, and the Judge standing before the door, is so nearly ready to open that door and call all men to account, that it is too late to indulge grievances, complaints, and grudges against others. Of course there is never time for any such thing as that, but now, of all times that there have ever been in the world, there is the least time for such things and the greatest risk in indulging them. "The coming of the Lord draweth nigh," "the Judge standeth before the door," and as "every one of us" is to "give account of himself to God," and as that account is about to be called for, the thing to do is for every one to have his account so squared up each day, and each hour, that if the Judge should open the door and call for the account, it can be rendered with joy and not with grief.

There is another passage of scripture that so fully describes the present situation, in another phase that it is worth noting. All men see the way that

things are going, and they know that the times are perilous, and they resort to combinations of different sorts by which, if possible, to save themselves from results which they see must certainly follow, even viewed from the standpoint of the world. The laborers combine in unions, leagues, etc., to save themselves from what seems to them must certainly come. The farmers do the same, and the capitalists do the same. Now in the eighth chapter of Isaiah, this course of things is described, and the word says: "Associate yourselves, O ye people, and ye shall be broken in pieces; and give ear, all ye of far countries: gird yourselves, and ye shall be broken in pieces; gird yourselves, and ye shall be broken in pieces. Take counsel together, and it shall come to nought; speak the word, and it shall not stand: for God is with us. For the Lord spake thus to me with a strong hand, and instructed me that I should not walk in the way of this people, saying [that is, the Lord says to us], Say ye not, A confederacy, to all them to whom this people shall say, A confederacy; neither fear ye their fear, nor be afraid. Sanctify the Lord of hosts himself; and let him be your fear, and let him be your dread. . . . And I will wait upon the Lord, that hideth his face from the house of Jacob, and I will look for him." Isa. 8:9-17. Thus it is clearly shown that in the time of waiting and watching for the coming of the Lord, there will be this time of general distress and fear, in view of what is coming; and also this time of association and combination and confederation of many together to save themselves from that which they fear. It shows also that none of these associations, combinations, or confederacies will help those who enter into them. But the

word which they speak "shall not stand;" the counsel which they take together will "come to nought;" and the combinations which they make, and even they, themselves, in those confederations, "shall be broken in pieces."

No, no. Confederation or association of men will not save them in this time. Every effort made in that way will only increase the trouble and the danger which they hoped to escape. This also is apparent to everyone who looks at these things as they are to-day; for never was there a time in the world when there were such vast combinations of capital, and never was there a time when capital was so insecure. Never were there such vast organizations and combinations of labor, and never was labor in a worse plight. Unions, federations, combinations, will not help matters. These evils will grow worse and worse. Men themselves will grow worse and worse. 2 Tim. 3:1-5, 13. And by no combination or invention can men save themselves from themselves.

None but the Lord can save, even temporally, in this time. Therefore, in the presence of these things, when men are in fear and in dread, their hearts moved as the trees of the woods are moved with the wind, He counsels us, "Stablish your hearts," let your hearts be fixed, so that you shall be safe and unmoved when others are in fear and in dread. "Sanctify the Lord of hosts himself; and let him be your fear, and let him be your dread. And he shall be for a sanctuary," that is, for a refuge, a place of safety and security, a dwelling place, a shelter in the time of storm. For, "he that dwelleth in the secret place of the Most High shall abide under the shadow of the Almighty;"

and in the shadow of his wings can we make our refuge till these calamities be overpast.

Another scripture worthy of note is in Habakkuk, first and second chapters. There, in the first chapter, is related how the Lord caused the prophet in vision to see violence and strife, grievances and contentions, injustice and oppression. Verses 1-4. In astonishment the prophet inquired how the Lord, who is of purer eyes than to behold evil, and cannot look upon iniquity,—how he could look upon such a scene as this and not do something; how he could keep silence while there was such treacherous dealings, and the wicked devouring the man who is more righteous than he. Verses 13-15. Then after the prophet had presented thus his earnest inquiry, he says: "I will stand upon my watch, and set me upon the tower, and will watch to see what he will say unto me, and what I shall answer when I am reprov'd. And the Lord answered me, and said, Write the vision, and make it plain upon tables, that he may run that readeth it. For the vision is yet for an appointed time, but at the end it shall speak, and not lie: though it tarry, wait for it; because it will surely come, it will not tarry. Behold, his soul which is lifted up is not upright in him: but the just shall live by his faith." In Hebrews 10: 36, 37, this passage of scripture is applied directly to the coming of the Lord in these words: "For ye have need of patience, that, after ye have done the will of God, ye might receive the promise. For yet a little while, and he that shall come will come, and will not tarry. Now the just shall live by faith: but if any man draw back, my soul shall have no pleasure in him."

In Habakkuk, the counsel of the Lord to the prophet proceeds to describe those men who enlarge their desire as the grave (which is one of the things that never say, I have enough); and who are as death, that is, will never let go that which they have gained, and cannot be satisfied. He also describes, on the other hand, those who are oppressed and robbed by these, and says: "Shall not all these take up a parable against him, and a taunting proverb against him, and say, Woe to him that increaseth that which is not his! how long? . . . Shall they not rise up suddenly that shall bite thee, and awake that shall vex thee, and thou shalt be for booties unto them?"

Here is a description of the very things that are going on. There is a cry against the rich that there must be a more equal distribution of the good things of this world. Already the cry has been often raised, How long shall this continue? Already threats have been made, not secretly, but openly and loudly, not by the lowest of the rabble, but by men in high places, that the wealth that is so abundant and that is hoarded shall be made booty for those who have not. Booty is that which is taken away by violence, and here is the word of a man to that effect who to-day is Secretary of State of one of the States of the Union, and was such when the statement was made: —

"I want to make a prediction. It is that there will be no overt act until the next election, then simultaneously with the returns, the flames will shoot up into the air from the Atlantic to the Pacific."

And here is another, not by a man in any official position, but one who spoke for thousands: —

"In Massachusetts the workingmen were browbeaten and not heard. If things go on in this way, and the rich and the lawmakers

turn their backs upon the poor, refusing to listen to the workingmen, there will follow an epidemic of assassination. Bombs will be exploded, and all the devices known for taking off oppressors will be the fate of our delinquent legislators and capitalists."

In view of what has occurred within the present year in Europe, it would seem that there the epidemic of assassination has even already begun, and with such a stirring up as this in the United States, with what has already appeared, it would seem also that such things could not be far off here.

And the scripture which we are examining continues to describe this very element: "Because thou hast spoiled many nations, all the remnant of the people shall spoil thee; because of men's blood, and for the violence of the land, of the city, and of all that dwell therein." Hab. 2:8. If we have not now reached the time when there is violence in the city, and in the land, and amongst all that dwell therein, certainly things cannot go on much longer as they have been going since last Easter day, without bringing the country, and even the civilized world, positively to that condition. And the Lord said more than once, "As it was in the days of Noah, so shall also the coming of the Son of man be." In the days of Noah the earth was "filled with violence," and for these three months and more, straight ahead, violence has almost covered this land from ocean to ocean.

And the time when this should be is also made clear by the statement that it is among the "*remnant of the people.*" The remnant of anything is the last portion of it. The scripture speaks of the remnant of the church and the remnant of God's people, plainly referring to the last stage of the church and the last of God's

people who shall be upon the earth,—those who shall be delivered at the coming of the Lord. But here is the remnant, not of the church, nor of God's people, but the remnant of all the people, the remnant of the people of the earth, and that is just as clearly the last of the people that shall be upon the earth. And these things which are being carried on before the eyes of all the people, this continual strife and violence that is being manifested throughout the land and throughout the civilized world, this the scripture says will be in the time of "the remnant of the people." Therefore it is certain that the people that are now upon the earth are the remnant, the last of the people who shall be upon the earth. "The great day of the Lord is near, it is near, and hasteth greatly, even the voice of the day of the Lord." "The coming of the Lord draweth nigh."

There is just one more scripture that we will notice in this connection. This is the word spoken by the Lord himself when he was upon the earth, in answer to the question by his disciples as to what should be the sign of his coming and the end of the world. He answered as follows: "There shall be signs in the sun, and in the moon, and in the stars; and upon the earth distress of nations, with perplexity; the sea and the waves roaring; men's hearts failing them for fear, and for looking after those things which are coming on the earth. Luke 21:25, 26. The signs in the sun and in the moon and the stars have long been in the past. The sun was to be darkened, and the moon to be turned to blood, and the stars were to fall from heaven, before the great and terrible day of the Lord should come. Joel 2:31, 32; Rev. 6:12-17. These signs in the sun and moon were

fulfilled in the wonderful dark day of 1780.¹ In November, 1833, the sign was fulfilled which said that the stars should fall from heaven, "even as a fig tree casteth her untimely figs when she is shaken of a mighty wind."²

These signs are then long in the past, and from them it is evident that we are nearing the coming of the Lord. But there are other signs mentioned which are nearer to us than those—signs that are even right around us and so persistently thrust before our eyes and upon our attention that it is impossible not to see them. There is upon the earth to-day such distress of nations with perplexity as never has been before. Nations have been distressed before, but not so greatly distressed, nor with perplexity. An individual or a nation may be distressed and may be able to see and find a way of escape; but when either an individual or a nation is not only distressed but perplexed, then there is no knowing which way to turn. Each thing that is resorted to, to relieve the distress, only increases the perplexity. And this is precisely the condition in which the nations, as nations and as governments, are to-day—through fear of war, through financial dis-

¹ "*Dark Day, The*, May 19, 1780, so called on account of a remarkable darkness on that day, extending over all New England. In some places persons could not see to read common print in the open air for several hours together . . . The true cause of this remarkable phenomenon is not known."—*Webster's Unabridged Dictionary, in Explanatory and Pronouncing Vocabulary*, art., *Dark Day*.

"The night succeeding that day (May 19, 1780) was of such pitchy darkness that in some instances horses could not be compelled to leave the stable when wanted for service."—*Stone's History of Beverly (Mass.)*.

² "But the most sublime phenomenon of shooting stars, of which the world has furnished any record, was witnessed throughout the United States on the morning of the 13th of November, 1833. The entire extent of this astonishing exhibition has not been precisely ascertained; but it covered no inconsiderable portion of the earth's surface."—*Burritt's Geography of the Heavens*, p. 163, ed. 1854.

trass, through socialistic threats and anarchistic explosions. In view of all these things, and others which have been mentioned, men's hearts are now, as never before, failing them for fear and for looking after those things which are coming upon the earth. All these things are before us and around us. They have all come to pass and are here, and the very next thing that the Saviour mentions is this: "The powers of heaven shall be shaken. And *then* shall they see the Son of man coming in a cloud with power and great glory." Luke 21 : 26, 27. So that after these there is no other sign given us of the coming of the Lord. For the shaking of the powers of heaven occurs in immediate connection with the coming of the Lord, so that this is not, in itself, a sign of the coming of the Lord, but is the convulsion of nature itself at the coming of the Lord. So that it is a literal truth that every sign which the Saviour gave in this list of signs of his coming, is either far in the past or is now passing before the eyes of all the people upon the earth. The next thing is the coming of the Lord himself.

The Saviour comments upon this and says: "And when these things begin to come to pass, then look up, and lift up your heads; for your redemption draweth nigh." Luke 21 : 28. "So likewise ye when ye shall see all these things, know that it [margin "he"] is near, even at the doors." Matt. 24 : 33. So that when the signs in the sun and in the moon and stars began to appear, then redemption *drew nigh*. Now, when we see not only that the signs in the sun, moon, and stars are all long in the past, but that the distress of nations with perplexity, the sea and waves roaring, and men's hearts failing them for fear and for looking after those things that are coming upon the earth, are

passing in the presence of all the people—now, we know that *he is near, even at the door.*

And this is the answer which the Lord has given to that question which every man is asking his neighbor,—What do these things mean? The word of God says that these things mean that the harvest is ripe, that the end is near, that the coming of the Lord draweth nigh. And his counsel to all the people is therefore, “Get ready! get ready! get ready!” “Stablish your hearts,” “Sanctify the Lord of hosts himself; . . . and he shall be for a sanctuary;” “Let your loins be girded about, and your lights burning; and ye yourselves like unto men that wait for their lord, when he will return from the wedding; that when he cometh, and knocketh, they may open unto him *immediately.*” Luke 12 : 35, 36.

“For the Son of man is as a man taking a far journey, who left his house, and gave authority to his servants, and to every man his work, and commanded the porter to watch. Watch ye therefore : for ye know not when the master of the house cometh, at even, or at midnight, or at the cockcrowing, or in the morning : lest coming suddenly he find you sleeping. And what I say unto you I say unto all, WATCH.” Mark 13 : 34-37.

Nor does the Lord leave men to themselves in this all-important matter of getting ready for his coming. He himself will fully prepare every soul for this great and glorious event, who will surrender himself to the Lord and to the working of his divine will. He has predestinated man to be conformed to the image of his Son. To this end he has called all men.

“Tell ye, and bring them near ; yea, let them take counsel together ; who hath declared this from ancient time ? who hath told it from that time ? have not I the Lord ? and there is no God else

beside me ; a just God and a Saviour ; there is none beside me. Look unto me and be ye saved, all the ends of the earth : for I am God, and there is none else." Isa. 45 : 22.

What does he say must be done to be saved ? "*Look* unto me and be ye saved." "*Look.*"

"As Moses lifted up the serpent in the wilderness, even so must the Son of man be lifted up, that whosoever believeth on him should not perish, but have eternal life."

When Moses lifted up the serpent in the wilderness, the word was, "Look and live." And whosoever looked was cured of the poisonous bites of the serpents. So he says to-day : —

"*Look* unto me, and be ye *saved*, all the ends of the earth."

If you are blind and cannot see, and therefore unable to look, then he comes to you and says : —

"*Hear*, and your soul shall live." Isa. 55 : 3.

If you are both blind and deaf, and can neither see nor hear, then he says : —

"*Speak* ye unto the Rock, . . . and it shall give forth his water."
"And that Rock was Christ." Num. 20 : 8 ; 1 Cor. 10 : 4.

If you are blind, and deaf, and dumb, and can neither see, nor hear, nor speak, then he says : —

"O *taste* and see that the Lord is good." Ps. 34 : 8.

If you are blind, and deaf, and dumb, and have lost all sense of taste, and there is only one single faculty remaining, use that, for he says —

"*Feel* after him, and find him." Acts 17 : 27.

Thus the God of Israel, the Lord Jesus Christ, has brought his glorious salvation, his eternal salvation,

within the reach of every individual in this world who can either see, or hear, or speak, or feel. And that is all he asks of you. That is God's way of salvation. Will you accept this salvation and so be justified by the Lord, and thus by him be prepared to be glorified at his glorious appearing which is now so near, and of which there are so many signs?

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"THE IMMACULATE CONCEPTION

OF THE

BLESSED VIRGIN MARY."

THE official and "infallible" doctrine of the immaculate conception as solemnly defined as an article of faith by Pope Pius IX, speaking *ex cathedra*, on the 8th of December, 1854, is as follows : —

"By the authority of our Lord Jesus Christ, of the blessed apostles Peter and Paul, and by our own authority, we declare, pronounce, and define, that the doctrine which holds that the most blessed Virgin Mary, in the first instant of her conception, by a special grace and privilege of Almighty God, in view of the merits of Jesus Christ, the Saviour of mankind, was preserved free from all stain of original sin, has been revealed by God, and, therefore, is to be firmly and steadfastly believed by all the faithful.

"Wherefore, if any shall presume, which may God avert, to think in their heart otherwise than has been defined by us, let them know, and moreover understand, that they are condemned by their own judgment, that they have made shipwreck as regards the faith, and have fallen away from the unity of the church." — "*Catholic Belief*," p. 214.¹

It may be well to remark in beginning that there is a large number of Protestants as well as other non-Catholics who

¹ "Catholic Belief," is "a short and simple exposition of Catholic doctrine," by the Very Rev. Joseph Faà Di Bruno, Rector-General of the Pious Society of Missions; Church of S S mo Salvatore in Ouda, Ponte Sisto, Rome, and St. Peter's Italian Church, Hatton Garden, London, E. C. Author's American Edition, edited by Rev. Louis A. Lambert, author of "Notes on Ingersoll," etc., etc. One Hundredth Thousand. Benziger Brothers, printers to the Holy Apostolic See, New York, Cincinnati, and Chicago." Imprimatur, John Cardinal McCloskey, Archbishop of New York, June 5, 1884; and *Imprimatur*, Henricus Eduardus, Card. Archiep. Westmonast, Die 19 Julii, 1893.

entertain the mistaken view that the doctrine of the immaculate conception refers to the conception of Jesus by the Virgin Mary. The truth is that it refers not to the conception of Christ by Mary, but to the conception of Mary herself by her mother.

It is true that in the dogma the words are "at the first instant of *her* conception;" and in strictness of idea perhaps, this form of expression ought to refer to conception on her own part, and therefore to her conception of Jesus. But this is not the idea of the dogma. In the dogma, the sole idea and purport, of the words "her conception" is *the* conception of *her* by her own mother. Accordingly, to English readers it would more clearly express the thought to put it in the words, "at the first instant of the conception of her," etc. For in all the controversy and literature on the subject, there is no thought of applying the phrase "immaculate conception" to anything but to the conception of Mary herself by her mother, whom "tradition" says was Anne.

In these days of the general acceptance of Catholicism as Christianity; and of compromises with the Catholic Church, and apologies for her on the part of "Protestants," it is well that we should study such things as this that we may know for ourselves what is their real effect upon the doctrine of Christ, and what their consequences, in those who accept the dogma.

The first consequence of it to him who believes this doctrine is to make the Virgin Mary, if not actually divine, then the nearest to it, of any creature in the universe; and this, too, in her human nature. In proof of this we have the following statements of Catholic fathers and saints:—

"The ancient writer of 'De Nativitate Christi' found in St. Cyprian's works, says: Because (Mary) being 'very different from the rest of mankind, human nature, but not sin, communicated itself to her.'

"Theodoret, a father that lived in the fifth century, says that Mary 'surpassed by far the cherubim and the seraphim in purity.'"

"In the Greek Liturgy of St. Chrysostom, a father of the fourth century, . . . the following words are directed to be chanted by the choir during the canon of the mass : ' It is truly meet that we should praise thee, O mother of God, . . . thou art the mother of our God, to be venerated in preference to the cherubim; thou art beyond comparison more glorious than the seraphim.' "

"Theodore, patriarch of Jerusalem, said in the second council of Nice, that Mary 'is truly the mother of God, and virgin before and after childbirth; and she was created in a condition more sublime and glorious than that of all natures, whether intellectual or corporeal.' " — *Id. pp. 216, 217.*

Lest these statements should seem too ancient for "Protestants" we present a passage from our own times. In the "Manual of Devotion to Good St. Anne" — St. Anne De Beaupre (*pronounced boo-per*), in the province of Quebec, and bearing the *imprimatur* of E. A. Cardinal Taschereau, present Archbishop of Quebec, it is said of Mary, that she—

"Is purer than angels, holier than the Archangels, higher than the Thrones, more powerful than the Dominations, *more enlightened than the cherubim*, more inflamed with divine love than the seraphim." — *p. 72.*

These statements show that in the view of the Catholic Church and of the dogma of the immaculate conception, the nature of Mary was so "very different from the rest of mankind," so much "more sublime and glorious than that of all natures," and "surpassed *by* [so] *far* the cherubim and seraphim" as to be "beyond comparison more glorious than" they, and therefore to be venerated "in preference" to them. This, then, puts the nature of Mary infinitely beyond any real likeness or relationship to mankind.

Having this clearly in mind, let us follow to the next step. And here it is in the words of Cardinal Gibbons :—

"We affirm that the Second Person of the Blessed Trinity, the Word of God, who, in his divine nature is, from all eternity, begotten of the Father, consubstantial with him, was in the fullness of time again begotten, by being born of the virgin, thus taking to himself from her maternal womb, a human nature of *the same substance with hers.*

"As far as the sublime mystery of the incarnation can be reflected in the natural order, the blessed virgin, under the overshadowing of the Holy Ghost, by communicating to the Second Person of the adorable Trinity, as mothers do, a true human nature *'of the same substance with her own*, is thereby really and truly his mother."—"*Faith of Our Fathers*," pp. 198, 199.

Now put these two things together, First, we have the nature of Mary defined as being not only "very different from the rest of mankind," but "more sublime and glorious *than all natures*;" thus putting her infinitely beyond any real likeness or relationship to mankind as we really are.

Next, we have Jesus described as taking from her a human nature of the *same substance* as hers.

It therefore follows as certainly as that two and two make four, that *in his human nature* the Lord Jesus is "very different" from mankind, is in a condition more sublime and glorious *than all natures*, is beyond comparison farther from us than are the cherubim and the seraphim, and is therefore infinitely beyond any real likeness or relationship *to us* as we really are in this world.

We know the answer that "the Church" makes to this — that Mary and Anne and Joseph and Joachim especially, and all the other eleven hundred and fifty saints, intercede with Him for those who would have his help, and that *through these* he is enabled to reach mankind though he himself is so far beyond us. Even as the "Manual of Devotion to Good St. Anne" says further of Mary, that she —

"Is the ladder to heaven, the anchor of the shipwrecked, the star of the mariner, the bridge whereby God crossed the abyss which separated us from him."—p. 73.

But this is as great a fraud as is all the rest of the scheme. For the Virgin Mary, and Anne, Joseph, and Joachim and all the rest of the Catholic saints *are dead*, and cannot intercede for anybody. For the word of God says plainly

that "the dead know not anything." Eccl. 9 : 5. And "in death there is no remembrance of thee." Ps. 6 : 5. And Jesus said to his disciples all, "Whither I go ye cannot come." John 13 : 33.

The situation then as presented by the dogma of the "Immaculate Conception" is this : By it Jesus, even in his "human" nature, is put so far away from sinful men that we cannot reach him nor approach him except through the intercessions of Mary, and Anne, and the other Catholic saints. But Mary and Anne and all these other saints are dead and so know nothing at all about anybody, and therefore can do nothing whatever for anybody. Therefore with Jesus so far away that we cannot find him without the intercessions of these saints, and with Mary and Joseph and the other Catholic saints *all dead*, and consequently unable to intercede for anybody, it is certain that the dogma of the immaculate conception puts Jesus Christ infinitely beyond the reach of mankind ; as far from us indeed, as though he had never offered himself at all, and robs the world of the Saviour to the extent that that dogma is received.

But it is not true that God, either the Father or the Son, is far from mankind. For the scripture says, "He is *not* far from every one of us." Acts 17 : 27.

The truth is, that the Lord Jesus, in his human nature, was made *lower* than the angels, and took our nature of flesh and blood just as it is, with all its infirmities. The Scriptures are as plain as anything can be on this point, and are worthy to be set down here against this papal invention of the immaculate conception. Having found that the papacy puts Christ as *far away* from men as possible, it will be well to know how *near* to men he really is.

In the first chapter of Hebrews, Jesus the Son of God is presented *in his divine nature* as equal with God and as God indeed, the Creator and Upholder of all things, as "so much

better than the angels," that he has "a more excellent name than they," and as so much higher than the angels that "all the angels of God worship him."

In the second chapter of the same book, he is presented *in his human nature* as "lower than the angels," even as man himself. Thus it is written: "One in a certain place testified, saying, What is man that thou art mindful of him? or the Son of man that thou visitest him! Thou *madest him a little lower than the angels*; thou crownedst him with glory and honor, and didst set him over the works of thy hands: thou hast put all things in subjection under his feet. For in that he put all things in subjection under him, he left nothing that is not put under him. But now we see not yet all things put under him. *But we see Jesus*, who was made a little *lower than the angels*."

Thus, instead of his human nature being "beyond comparison" higher than angels, cherubim, and seraphim, it was made as much lower than they as man himself was made lower.

Nor is it only as man was lower than the angels *before he sinned*. It was *not* as man was lower than the angels in his *sinless* nature, that Jesus was made lower than the angels in his human nature; but as man is lower than the angels in his *sinful* nature, as he is since he by sin became subject to suffering and death. For so it is written: "We see Jesus, who was made a little lower than the angels *for the suffering of death*, . . . that he, by the grace of God, *should taste death for every man*. For it became him, for whom are all things, and by whom are all things, in bringing many sons unto glory to make the captain of their salvation perfect *through suffering*." Thus, as man in his sinless human nature was made a little lower than the angels, and then by sin stepped still lower to suffering and death; *even so Jesus*, that he might bring man back to the glory of God, in his love followed him down even here, partakes of his nature as it is, suffers with him,

and even dies *with* him as well as *for* him in his *sinful* human nature. For "he was numbered with the transgressors" — he died as a malefactor between two malefactors. This is love. This is Jesus our *Saviour*, for he comes to us where we are, that he may reach us and lift us up from ourselves unto God.

Yet this blessed saving truth is even more plainly stated, thus: "Forasmuch then as the children are partakers of flesh and blood, he also himself likewise took part of the same." Heb. 2:14. He, in his *human nature*, took the same flesh and blood that we have. All the words that could be used to make this plain and positive are here put together in a single sentence. See: The children are partakers of flesh and blood. Because of this *he* took part of the same. But this is not all, he *also* took part of the same flesh and blood as the children have. Nor is this all: he also *himself* took part of the same flesh and blood as we. Nor yet is this all: he also himself *likewise* took part of the same flesh and blood as man.

The spirit of inspiration so much desires that this truth shall be made plain and emphatic that he is not content to use any fewer than all the words that could be used in the telling of it. And therefore it is declared that just as, and just as certainly as the children of men are partakers of flesh and blood, *he also, himself, likewise* took part of *the same flesh and blood* as we have in the bondage of sin and the fear of death. For he took this same flesh and blood that we have, in order "that through death he might deliver them who through fear of death were all their lifetime subject to bondage."

Therefore, instead of its being true that Jesus in his human nature is so far away from men, as they really are, that he has no real likeness nor relationship to us, it is true that he is in very deed our kin in flesh and blood relation — even our Brother in blood relationship. For it is written: "Both he

which sanctifieth and they who are sanctified are all of one ; for which cause he is *not ashamed to call them brethren*, saying, I will declare thy name unto my brethren." Heb. 2 : 11.

This great truth of the blood-relationship between our Redeemer and ourselves is clearly taught also in the gospel in Leviticus. There was the law of redemption of men and their inheritances. When any one of the children of Israel had lost his inheritance, or himself had been brought into bondage, there was redemption provided. If he was able of himself to redeem himself or his inheritance, he could do it. But if he was not able of himself to redeem, then the right of redemption fell to his nearest of kin in blood-relationship. It fell not merely to *one* who was *near* of kin among his brethren, but to *the* one who was *nearest* of kin who was able. Lev. 25 : 24-28, 47-46 ; Ruth 2 : 20 ; 3 : 12, 13 ; 4 : 1-12.

Thus there has been taught through these ages the very truth which we have found taught here in the second chapter of Hebrews : the truth that man has lost his inheritance and is himself also in bondage. And as he himself cannot redeem himself nor his inheritance, the right of redemption falls to the nearest of kin who is able. And Jesus Christ is the only one in all the universe who is able. He must also be not only *near* of kin, but the *nearest* of kin. And the nearest of kin *by blood* relationship. And therefore he took our very flesh and blood, and so became our nearest of kin. And so also, instead of being farther away from us than are the angels and cherubim and seraphim, he is the very nearest to us of all persons in the universe.

He is so near to us that he is actually one of us. For so it is written : "Both he which sanctifieth and they who are sanctified are *all of one*." Heb. 2 : 11. And he and we being one, he being one with mankind, it is impossible to have a mediator between him and men, because he and man-

kind are one and "a mediator is not a mediator of one." Gal. 3 : 20. And as certainly as Jesus Christ is one with mankind and "a mediator is not a mediator of one," so certainly this truth at once annihilates the "intercessions" of all the Catholic saints in the calendar, even though they were all alive and in heaven instead of being all dead. He is so near to us that there is no room for *anybody* and much less for from one to eleven hundred and fifty people to come between him and us. He is so entirely one with us and of us — of our very selves, our very flesh and blood — that it would be impossible to get the Virgin or a single one of the other saints between us, even though they were alive. No, he is one *of us* ; and as a mediator is not a mediator of one, it is impossible that there *could* be a mediator between Christ and men — even sinful men.

But the Scripture does not stop even yet with the statement of this all-important truth. It says further : "For verily he took not on him the nature of angels ; but he took on him the seed of Abraham. Wherefore *in all things* it behooved him to be made *like unto his brethren* that he might be a merciful and faithful high priest in things pertaining to God, to make reconciliation for the sins of the people. For in that he himself hath suffered being tempted, he is able to succor them that are tempted." "For we have not an high priest which cannot be touched with the feeling of our infirmities ; but was in all points tempted like as we are, yet without sin." Heb 4 : 15. Being made in his human nature, in all things like as we are, he could be, and was, tempted in all points like as we are.

As in his human nature he is one with us, and as "himself took our infirmities" (Matt. 8 : 17), so he could be "touched with the *feeling* of our infirmities." And so also, he can help and save to the uttermost all who will receive him. As in his flesh, and as in himself in the flesh, he was as weak as we are, and of himself could "do nothing" (John

5 : 30), when he bore our griefs and carried our sorrows" (Isa. 53 : 4), and was tempted as we are, by his divine faith he conquered all by the power of God which that faith brought to him and which *in our flesh* he has brought to us. "For it became him, for whom *are* all things, and by whom *are* all things, in bringing many sons unto glory, to make the captain of their salvation perfect through sufferings." Heb. 2 : 10.

And thus "what the law could not do in that it was weak through the flesh, God sending his own son in the *likeness* of *sinful* flesh" did. The law could not bring us to God, nor could it find in the flesh the righteousness which it must have, because the flesh had fallen away from God and could not reach him again. But though the sinful flesh could not reach God, yet *God* in his eternal power and infinite mercy *could reach sinful flesh*. And so "the Word was made flesh and dwelt among us full of grace and truth." John 1 : 14. "God was manifest in the flesh" (1 Tim. 3 : 16), even "sinful flesh, and for sin condemned sin in the flesh : that the righteousness of the law might be fulfilled in us who walk not after the flesh, but after the Spirit." Rom. 8 : 3, 4.

This is Christianity. To deny this, to deny that Jesus Christ came not simply in *flesh*, but in *the* flesh, the only flesh that there is in this world, *sinful* flesh,—to deny this is to deny Christ. For "every spirit that confesseth *not* that Jesus Christ is come in *the* flesh, is not of God." The Catholic Church does not confess this ; but on the contrary declares it to be "shocking to Christian minds" and the "revolting consequences" of denying the immaculate conception.—"*Catholic Belief*," pp. 217, 218. Therefore this is the spirit of antichrist, whereof ye have heard that it should come ; and even now already is it in the world." But, "Every spirit that confesseth that Jesus Christ is come in the flesh is of God." "Hereby know ye the spirit of truth and the spirit of error." 1 John 4 : 2, 3, 6.

O, his name is called Immanuel, which is "God with us." Not God with *him* only, but God with *us*. God was with *him* in eternity, and could have been with him even though he had not given himself for us. But man through sin became without God, and God wanted to be again with us. Therefore Jesus became us, that God with him might be God with *us*. And that is his name because that is what he is.

Therefore and finally, as certainly as in his human nature Jesus Christ is one with us, and as certainly as God with him is God with us, so certainly the nature of the Virgin Mary was just like that of all the rest of us, and so certainly the dogma of the immaculate conception is an absolute fraud; and the doctrine a ruinous deception.

O! then, receive Him. He stands at the door and knocks; let him in. No ladder is required to reach him, for he himself is the Ladder which reaches from the earth where we are, to the highest heaven; and by which alone we can reach the presence of God. No bridge is needed. There *is* no abyss between us and him, for he is of ourselves *as we are* on the earth. And "with his divine arm he grasps the throne of God and with his long human arm he gathers the sinful, suffering human race to his great heart of love," that we may be one with God.

Confess to him your sins: he will never take advantage of you. Tell him your griefs: he has felt the same and can relieve you. Pour out to him your sorrows: "he hath carried our sorrows," he was "a man of sorrows and acquainted with grief," he will comfort you with the comfort of God.

A. T. J.

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THE PURITAN SABBATH FOR "PHYSICAL REST."

IN the agitation in behalf of Sunday laws that is now being carried on all over the land, the religious character of Sunday and of the legislation is sought to be covered up by the plea that "one seventh part of time — that is, one whole day in seven, which must be Sunday — is necessary *for physical rest*" in order that men may "recuperate their wasted energies" and be better prepared successfully to prosecute the vocations of life. This is the ground also upon which courts attempt to sustain the rightfulness of Sunday laws. It is well to examine this plea and see what is its basis, and what its origin, that we may know what it is worth.

The origin of the theory of "one-seventh part of time" for rest was in the controversy between the Puritans and the Episcopalians in the latter part of the sixteenth century, and the authority for the theory was the Rev. Nicolas Bownde, or Bound, D. D., "of Norton, in the county of Suffolk," England. Dr. Bownde was a Puritan and promulgated this theory for the first time in a book which he published in 1594, entitled "The Doctrine of the Sabbath."

The way it came about was this: It was in the height of the controversy between the Church of England and the Puritans about "habits and ceremonies, and church discipline." The Church of England maintained,—

"That though the holy Scriptures are a perfect standard of doctrine, they are not a rule of discipline and government: nor is the practice of the

apostles an invariable rule or law to the church in succeeding ages, because they acted according to the circumstances of the church in its infant and persecuted state ; neither are the Scriptures a rule of human actions, so far as that whatsoever we do in matters of religion without their express direction or warrant is sin, but many things are left indifferent. The church is a society like others, invested with powers to make what laws she apprehends reasonable, decent, or necessary for her well-being and government, provided they do not interfere with or contradict the laws and commandments of holy Scripture : Where the Scripture is silent, human authority may interpose ; we must then have recourse to the reason of things and the rights of society. It follows from thence that the church is at liberty to appoint ceremonies, and establish order within the limits above mentioned ; and her authority ought to determine what is fit and convenient." — *Neal's "History of the Puritans," Part I, chap. viii, par. 112.*

All this the Puritans denied, and asserted that the Scriptures are a rule of discipline and government as well as a perfect standard of doctrine. The position of the Church of England, summarily stated, was, that, whatever the Scriptures do not forbid, in matters of church discipline and church government, may be done without sin. While the Puritan position was, that, whatever is not commanded in the Scriptures, in these things, cannot be done without sin. The Puritans therefore dropped all church festivals and feast days, surplices, habits, and ceremonies, and charged the Episcopalians with "popish leaven and superstition, and subjection to the ordinances of men" because they retained these. As proof that ought to convince the Puritans that the church had liberty in such things as these, the Episcopalians produced the fact that the observance of Sunday is only an ordinance of the church and rests only upon the authority of the church ; and that the Puritans therefore contradicted themselves in observing Sunday while denouncing the authority of the church, the only authority upon which that observance rests.

This put the Puritans in a box ; and they had to cast about for some way to get themselves out. They would not admit the authority of the church ; because if they did, that

would involve the obligation to observe all the other festivals. Directions of Scripture to observe Sunday they found none ; because the only authority for a day of weekly rest is the fourth commandment, which commands the observance of the seventh day, not the first day of the week. The Puritans therefore found themselves keeping a day for which there was no authority but church authority ; church authority they would not recognize ; and yet they would not give up Sunday observance. But to observe it without any authority, while insisting against the Episcopalians that there must be a commandment of God for everything that was to be done, was to condemn themselves in the eyes of all.

There was great perplexity. What could be done? Then it was that the inventive genius of Dr. Bownde found play. He committed a deliberate fraud upon the commandment of God, and came to the rescue with the theory that, It is not the definite seventh day, but "a seventh part of time" that is required by the fourth commandment to be kept for the Sabbath: that it is "not the seventh day from creation; but the day of Christ's resurrection, and the seventh day from that:" that "the seventh day is *genus*" in the fourth commandment, so that "the seventh day from creation, and the day of Christ's resurrection and the seventh from that" are "both of them at several times comprehended in the commandment, even as *genus* comprehendeth both his species." Thus the fourth commandment was made to enforce the seventh day from creation until the resurrection of Christ and then the first day from that time onward !

This brought joy to the Puritans, for it relieved them from the dilemma into which the answer of the Episcopalians had cast them. "This book had a wonderful spread among the people." "All the Puritans fell in with this doctrine, and distinguished themselves by spending that part of sacred time in public, family, and private acts of devotion." Says Heylin :—

"This doctrine, carrying such a fair show of piety, at least in the opinion of the common people, and such as did not examine the true grounds of it, induced many to embrace and defend it; and in a very little time it became the most bewitching error and the most popular infatuation that ever was embraced by the people of England."

But for what purpose was this "seventh part of time" appointed? for what was it to be used when it had been discovered?

"This year [1594] Dr. Bownde published his treatise on the Sabbath, wherein he maintains the morality of the seventh part of time *for the worship of God.*" — *Neal, Id., par. 120.*

Doctor Bownde's own statement of the matter is this: —

"Wherefore being bound by his calling (Gen. 2 : 15) to dress and keep the garden, and yet charged (verse 3) to keep holy the seventh day, meditating upon the wisdom and mercy of God appearing, as in all the creatures, so especially in himself, and thus (Rom. 1 : 20) beholding the invisible things of God in them, giving thanks to God for them, praying for the continuance of them, teaching them to his posterity, etc., it was needful that the seventh day should be unto him (as it was indeed) a Sabbath day, that is, a day of rest, resting from all his other necessary business *that so he might with his whole heart and mind attend upon these, as the worship of God requireth.*" — *Book I, under 4.*

There was not in it the remotest idea that this time was for physical rest. It was solely for worship and religious exercises. The suggestion of such a thought as that this time was intended or might be devoted to physical rest would have been spurned by the founder of the theory and by every other Puritan that ever lived in Puritan times, as only the suggestion of the arch enemy of righteousness. The theory therefore that a seventh part of time is necessary *for physical rest* is a positive fraud upon the original.

And that the original invention that a seventh part of time is what is commanded and required, by the fourth commandment, is a positive fraud, is clearly proved not only by

the circumstances of its invention but also by every test of scripture and every rule of law.

But this theory of a seventh part of time for *physical* rest is not only a fraud upon the original Puritan theory of a seventh part of time for the worship of God, it is also a fraud upon the commandment of God which enjoins the day of rest. That commandment says: "Remember the Sabbath-day to keep it holy. Six days shalt thou labor, and do all thy work; but the seventh day is the Sabbath of the Lord thy God; in it thou shalt not do any work, thou, nor thy son, nor thy daughter, thy man-servant, nor thy maid-servant, nor thy cattle, nor thy stranger that is within thy gates; for in six days the Lord made heaven and earth, the sea, and all that in them is, and rested the seventh day; wherefore the Lord blessed the Sabbath day, and hallowed it."

Here are the reasons: First, he rested on the seventh day; second, he blessed it and made it holy. That you may become tired is not given as a reason for doing no work on the seventh day. God does not say that on the seventh day you shall do no work because if you should you would overdo or break down your physical system. Nothing of the kind. Man's physical wants are not referred to in the commandment.¹ It says, Work six days because *the Lord* worked six days; rest on the seventh because *the Lord* rested on the seventh day; keep that day holy, because the Lord blessed it and made it holy. It is the Lord who is to be held in view. It is the Lord who is to be exalted. Therefore the fourth commandment and its obligations have solely to do with man's relationship to God. It is not man's *physical* but his *spiritual* needs that are held in view in the Sabbath commandment.

¹It is not denied that physical rest is *obtained*, in the observance of the commandment; but it comes as the *consequence* of the spiritual rest which is the real meaning and object of the commandment. The observance of the Sabbath in spiritual rest is true Sabbath observance. While to attempt to observe it for physical rest is to miss it wholly and not to observe it at all.

This is further proved by referring again to the reason given in the commandment for the resting. It is to rest the seventh day because *the Lord rested* that day. Now did the Lord rest because he was weary from what he had done on the six days? Did he rest because if he should work longer there was danger of overdoing or breaking down his physical system? Did he rest in order to "recuperate his wasted energies?"—Not at all. "Hast thou not known? hast thou not heard, that the everlasting God, the Lord, the Creator of the ends of the earth, fainteth not, neither is weary?" Isa. 40 : 28. This is what the Scripture says of it; and what one of the chief Sunday-law workers says of it is this:—

"If he is never weary, how can we say of him that he rests? . . . God is a spirit, and the only rest which he can know is the supreme repose which only the Spirit can know—in the fulfillment of his purpose and the completeness as well as the completion of his work. Just as in the solemn pauses between the creative days, he pronounced his creatures, 'good,' so did he rejoice over the finishing of his work, resting in perfect satisfaction of an accomplished plan; not to restore his wasted energy."—*Rev. Geo. Elliott, "Abiding Sabbath," chap. i.*

The rest with which the Lord rested was spiritual rest, spiritual refreshing, and delight in the accomplished work of the creation. As the Lord's Sabbath rest was spiritual; and as his so resting is the reason for man's Sabbath rest, so man's Sabbath is likewise to be one of spiritual rest, spiritual refreshing, and delight in the works and ways of God. This is proved by that psalm for the Sabbath day, "Thou, Lord, hast made me glad through thy work; I will triumph in the works of thy hands." Ps. 92 : 4. And by another scripture, "If thou turn away thy foot from the Sabbath, from doing thy pleasure on my holy day; and call the Sabbath a delight, the holy of the Lord, honorable; and shalt honor him, not doing thine own ways, nor finding thine own pleasure, nor speaking thine own words; then shalt thou delight thyself in the Lord." Isa 58 : 13, 14.

This is yet further shown by the fact that the Sabbath was instituted and given to man while he was yet in the garden of Eden ; before he had sinned ; before the word had been spoken, "In the sweat of thy face shalt thou eat bread ;" — before toil had become a part of man's lot ; and while as yet there was no possible necessity or opportunity for any waste of energy and therefore no place for physical rest to recuperate wasted energy.

It is likewise shown in the additional fact that after men are redeemed, the earth made new, and Eden restored, the redeemed will keep the Sabbath. For it is written : "As the new heavens and the new earth which I will make, shall remain before me, saith the Lord, so shall your seed and your name remain. And it shall come to pass that, from one new moon to another, and from one Sabbath to another, shall all flesh come *to worship before me*, saith the Lord." Isa. 66 : 12, 23.

A day of weekly rest is *in itself* an institution of God. Its basis is the rest of God, which was wholly spiritual. Its purpose is to cultivate the spiritual in man. Its authority is the commandment of God which is spiritual and religious, and which must be religiously and spiritually observed to be observed at all. As says the seer of Patmos, "I was *in the Spirit* on the Lord's day." The whole subject, therefore, in all its bearings, is entirely beyond the jurisdiction and even the reach of the power of civil government or of man. It rests wholly in the power and jurisdiction of God, and remains solely between the individual and God.

Thus, we repeat, it is not man's physical, but his spiritual needs that are to be held in view in the Sabbath commandment. The Sabbath is intended to be a day in which to worship God — a day of holy remembrance of him and of meditation upon his works. The day is to be kept *holy*, not civilly nor physically. If it is not kept holy, it is not kept at